

<b>AN COIMISIÚN PLEANÁLA</b>	
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<b>15 SEP 2025</b>	
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**The Secretary**

**An Coimisiun Pleanala /An Bord Pleanala**

**64 Marlborough St**

**Dublin 1**

13<sup>th</sup> September 2025

Dear Sir or Madam,

**Appeal of Section 5 Declaration – Seán Keating Garden, Rathfarnham Castle  
Grounds – Re: South Dublin County Council Determination Ref: ED25/0063**

### **Introduction**

1. This appeal is made pursuant to Section 5 of the Planning and Development Act 2000 (as amended) in respect of South Dublin County Council's determination (Ref: ED25/0063) that the works undertaken at Seán Keating Garden constitute exempted development.
2. The Appellant disputes this determination and submits that the works constitute "development" requiring planning permission, and that exemption is precluded under Article 9 of the Planning and Development Regulations due to heritage, environmental, financial, and procedural restrictions.

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### **Legal and Planning Grounds**

3. The works constitute "development" as defined under Section 3 of the Act, involving landscaping, earthworks, drainage, construction of hard surfaces and a pond, boundary treatments, kerbing and street furniture.
4. The claimed exemption under Section 4(1)(aa) and Article 80 is invalidated by restrictions under Article 9, including:
  - (i) location within the curtilage and setting of Rathfarnham Castle, a Protected



Structure and National Monument,

(ii) material effect on the character and setting of that Protected Structure, and  
(iii) environmental sensitivities necessitating screening for Appropriate Assessment (AA) and Environmental Impact Assessment (EIA).

5. The exemption threshold under Article 80 was exceeded. The works carried out in 2013 involved expenditure of approximately €123,000, (not including cost of direct labour) but there was no evidence of that spend provided by SDCC.
6. The reported cost of €123,000 is incomplete, as it excludes **direct labour costs**. Applying standard local authority labour rates ( $\approx$  €30–€40 per hour in 2013), the true cost would have exceeded €160,000 in 2013 terms, or approximately €300,000 in 2025 terms. Accordingly, the **Article 80 expenditure threshold (€126,000)** was substantially exceeded, voiding any claim to exemption.\*\*\*
7. The works are integrally linked to South Dublin County Council's broader Part 8 plan for the Rathfarnham Courtyard and Stables. A piecemeal assessment of the 2013 works is contrary to EU case law including *O'Grianna v ABP* and *Balz v Germany (C-461/17)*, both of which reject project splitting and retrospective justification.
8. The works conflict with the statutory **County Development Plan objectives** under Section 10 of the Planning and Development Act 2000, which require protection of built heritage, Architectural Conservation Areas, and the natural environment. The alteration of the Seán Keating Garden within the curtilage of Rathfarnham Castle is inconsistent with those objectives.

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### Procedural Unfairness

8. A Section 5 application was submitted in June–July 2025. However, the Chief Executive's Report for the Part 8 process stated that no such application was on file.
9. This omission denied councillors access to material legal information and undermined public consultation, contrary to Article 81 of the Planning and Development Regulations.

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### Environmental and Heritage Impact

10. The 2013 works included excavation, paving, artificial pond construction and alteration of historic landscaping in proximity to a historic well, within the curtilage of a Protected Structure and National Monument.
11. These impacts warranted environmental screening and potentially Ministerial Consent under the National Monuments Acts. No such assessments or consents were obtained.



12. In particular, **Section 14 of the National Monuments Act 1930 (as amended)** requires Ministerial consent for any works affecting a National Monument in State ownership or guardianship. Rathfarnham Castle qualifies, and the works at Seán Keating Garden fell within its curtilage. The absence of such consent renders the works unauthorised.
  13. Furthermore, under the **Habitats Directive**, the threshold for triggering AA screening is low, as clarified in *Sweetman v ABP (C-258/11)*. Given the ecological sensitivities of the surrounding landscape, screening was mandatory.
  14. The cumulative works at Rathfarnham also raise potential obligations under the **Strategic Environmental Assessment (SEA) Directive**, insofar as the Part 8 operates in substance as a “programme” for the phased redevelopment of Rathfarnham Castle grounds. No SEA screening has been undertaken.
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### Public Infrastructure Deficiency

15. At the time of the works, and at the time of the Part 8 adoption, no wastewater infrastructure agreement was in place with Irish Water.
  16. Proceeding in the absence of essential public infrastructure breached Section 34(2)(g) of the Planning and Development Act and contravenes principles of proper planning.
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### Cumulative and Group Impact

17. Further unauthorised works are alleged at Cromwell’s Fort and its outbuildings, also within the Rathfarnham Castle grounds. A Section 5 application is in preparation in respect of those works.
  18. The Seán Keating Garden and Cromwell’s Fort together form a cumulative footprint across the southern and eastern curtilage of Rathfarnham Castle. Their combined impacts include:
    - (i) alteration of historic landscape character,
    - (ii) disturbance of sub-surface heritage features,
    - (iii) introduction of artificial surfaces, kerbs, signage and furniture,
    - (iv) hydrological changes, and
    - (v) erosion of the integrity of the designed landscape and architectural ensemble.
  19. These cumulative effects were not addressed in the Chief Executive’s Part 8 Report and were not disclosed to councillors. This omission constitutes a material defect under Section 179 of the Planning and Development Act and a breach of the duty of candour.
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### Additional Pattern of Unauthorised Works

20. In addition to the Seán Keating Garden and Cromwell's Fort outbuildings, further substantial works have been carried out within the curtilage of Rathfarnham Castle without planning permission or Ministerial consent. These include:
- (i) the installation of two substantial playgrounds within the Castle grounds, and
  - (ii) the creation of a '**plaza**' immediately outside the tearooms.
21. These developments are situated within the confines of a **Protected Structure and National Monument**. They involve groundworks, hard surfacing, installation of equipment and street furniture, and alteration of the historic designed landscape. No record exists of planning permission or Ministerial approval being sought or obtained for these works.
22. While this appeal is confined to the determination of the Seán Keating Garden, the wider context of multiple unauthorised works is material. Together, these interventions reinforce the cumulative pattern of development across the Castle grounds and compound the adverse heritage, environmental, and planning impacts already identified.
23. The failure of the planning authority to disclose or assess these playgrounds and plaza as part of the Part 8 process constitutes a **material omission**, undermining transparency and compliance with Section 179 of the Planning and Development Act and with Aarhus public participation requirements.
24. This pattern of unauthorised development demonstrates that the Seán Keating Garden works cannot be considered in isolation. Exemption is disapplied where, as here, cumulative works materially affect the character of a Protected Structure or the setting of a National Monument.
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### Failure to Disclose Development History

25. The planning authority failed to disclose in its Part 8 process the **entire development history of the Rathfarnham Castle grounds**, including both authorised and unauthorised works. This omission deprived councillors and the public of material information necessary to assess the planning and heritage implications of the proposed works.
26. Works omitted from disclosure include but are not limited to:
- (i) the Seán Keating Garden alterations (2012–2013) adjacent to a hydrological spring connected to a Natura 2000 site
  - (ii) the Cromwell's Fort outbuildings,
  - (iii) two substantial playgrounds constructed within the Castle grounds, including one that was installed adjacent and in the River Glin (known to be hydrologically connected to a NATURA 2000 site and a known otter habitat)
  - (iv) the creation of a **plaza** outside the tearooms.



27. These omissions are particularly serious given that the site lies within the **curtilage of a National Monument in State ownership and a Protected Structure**. In such a context, even apparently minor works can materially affect the character, setting, and landscape integrity of the heritage asset.
28. The law requires that cumulative and group impacts be considered holistically:
- *An Taisce v ABP (Carrowmore) [2015] IEHC 633* – cumulative impacts of phased works must be assessed together.
  - *Coláiste Laighean Teoranta v ABP (Moore Street) [2017] IEHC 35* – interrelated heritage assets must be considered collectively, not piecemeal.
  - *People Over Wind v Coillte (C-323/17)* – environmental screening must include in-combination and cumulative impacts.
  - *O’Grianna v ABP* – unlawful to split projects to avoid full assessment.
29. Under **Section 179 of the Planning and Development Act 2000** and **Article 81 of the Planning and Development Regulations 2001**, a Part 8 report must provide a description of the development sufficient to enable informed consideration. By omitting past and ongoing works, SDCC failed to meet this obligation.
30. Further, **Section 14 of the National Monuments Act 1930 (as amended)** requires Ministerial consent for any works to a National Monument in State ownership. Failure to disclose all relevant works frustrates this statutory safeguard.
31. The omission of the development history also breaches the **duty of candour** recognised in Irish law (*McCallig v ABP*; *Kilross Properties v ABP*) and denies the public its rights under the **Aarhus Convention** to participate in an informed manner.
32. Accordingly, the Seán Keating Garden works cannot lawfully be considered in isolation. The pattern of omissions fatally undermines the validity of the Part 8 process and confirms that exemption is disapplied.

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### Interaction with BusConnects CPO (Route 12 Corridor)

33. A further material consideration is that the BusConnects Route 12 Corridor proposals, approved by South Dublin County Council and now the subject of judicial review, involve the compulsory acquisition of part of the Rathfarnham Castle grounds, including a portion of the Seán Keating Garden.
34. The Environmental Impact Assessment Report (EIAR) for BusConnects failed to acknowledge the **unauthorised planning status of the Seán Keating Garden**, instead treating the altered landscape as lawful baseline condition. This



compounds the defect in SDCC's Section 5 determination and illustrates the consequences of failing to disclose full development history.

35. The attempt to advance a CPO over National Monument lands already subject to unauthorised development underscores the need for urgent scrutiny. It demonstrates a continuing pattern of unlawful or procedurally defective interventions within the Castle curtilage and provides further grounds for An Bord Pleanála to overturn the exempted development declaration.

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### Defective Baseline in Related Projects

36. The failure to determine and disclose the true planning status of the Seán Keating Garden has already had material consequences in related statutory processes. In particular, the Environmental Impact Assessment Report for BusConnects Route 12 treated the altered Seán Keating Garden as part of the lawful baseline condition of the site.
37. If, as the Appellant submits, the Garden works constitute unauthorised development, then the BusConnects assessment was conducted on a **materially misleading baseline**. This defect compounds the procedural unfairness of the present case and illustrates the risks of allowing unauthorised works to stand unchallenged.
38. An Bord Pleanála is therefore invited to recognise that the Section 5 determination has implications beyond the Garden itself. Proper resolution of the planning status of the Garden is essential not only for compliance with the Planning and Development Act but also for safeguarding the integrity of related development consent processes.

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### Improper Use of Part 8

39. Part 8 of the Regulations provides a procedure for proposed works but cannot lawfully be used to retrospectively regularise unauthorised development.
40. Unlike permissions granted under Section 34, a Part 8 resolution has **no statutory duration**. The procedure is premised on the assumption that local authorities, as public bodies, will act in full compliance with planning law and in service of the public good.
41. Given the significant deference afforded to local authorities under this mechanism, there is a corresponding expectation of **heightened accountability, transparency and compliance**. Where a planning authority fails to meet this standard, the safeguard lies in challenge and appeal to a higher planning authority.



42. Where unauthorised development has occurred, the correct procedure remains a retention application under Section 34, which provides for third-party participation, independent oversight, and full legal and environmental scrutiny.

43. Case law supports this principle:

- *Coláiste Laighean Teoranta v ABP (Moore Street) [2017] IEHC 35* – unlawful works cannot be retrospectively permitted under Part 8.
- *An Taisce v ABP (Carrowmore) [2015] IEHC 633* – unauthorised development must be cumulatively assessed and cannot be justified retrospectively.
- *Clonliffe (Whitehall College lands)* – legal advice confirmed Part 8 is not a substitute for Section 34 retention.

44. The doctrine of **legitimate expectation** also applies: members of the public are entitled to expect that works carried out by a local authority on a National Monument will comply fully with planning and heritage legislation. Breach of this expectation undermines confidence in the planning system and warrants scrutiny by An Bord Pleanála.

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### Relevant Precedent

45. The following case law further supports the Appellant's position:

- *Coyne v ABP* – failure to consider effects on protected structures invalidates planning decisions.
- *McCallig v ABP* – omission of material submissions breaches natural justice.
- *People Over Wind (C-323/17)* – environmental screening cannot be bypassed.
- *Balz v Germany (C-461/17)* – delayed projects must reassess environmental implications.
- *Sweetman v ABP (C-258/11)* – AA screening threshold is low and was applicable here.
- *Kelly v ABP [2014] IEHC 400* – absence of environmental assessment invalidates consent even for small-scale works.
- *Kilross Properties v ABP [2020] IEHC 406* – confirms duty to provide reasoned decision-making.
- *Friends of the Irish Environment v Government (Climate Case Ireland) [2020] IESC 49* – underlines transparency and accountability obligations on public bodies.
- *BBTT v ABP (Whitechurch Flood Scheme)* – failure to assess cumulative works in sensitive contexts invalidates approval.



### If Appeal Fails

- **Exempted development validated** despite heritage sensitivities
- Misuse of **Part 8** as substitute for retention reinforced
- **Ministerial consent bypassed** for works in National Monument curtilage
- **Cumulative and group impacts ignored**
- **BusConnects Judicial Review baseline strengthened, but their CPO process remains contentious**
- **Public confidence undermined** in planning system

### Comment:

If the appeal fails, unauthorised development within a National Monument will be retrospectively validated, weakening statutory safeguards, undermining related judicial review pertaining to BusConnects Route 12 and CPO proceedings, and eroding public trust in planning law.

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### Relief Sought

46. For the reasons set out above, the Appellant respectfully requests that An Bord Pleanála:
- (i) overturn the determination of South Dublin County Council (Ref: ED25/0063); and
  - (ii) declare that the works at Seán Keating Garden constitute development and are not exempted development within the meaning of the Planning and Development Act 2000 (as amended).

### Procedural Burden on eNGOs

47. The Appellant notes that a statutory fee of **€220** was required in order to bring this Section 5 appeal in addition to the €80 fee to SDCC as part of the Section 5 application.
48. We respectfully submit that this fee represents a **disproportionate burden** on environmental non-governmental organisations (eNGOs), who play a vital role in ensuring compliance with planning and heritage law.
49. This burden is particularly acute where:
- The planning authority is both **developer and decision-maker** under the Part 8 process; and
  - Local authorities are afforded a **shield of centurion deference**, with an assumption of compliance rather than rigorous independent scrutiny.
50. Requiring eNGOs to incur significant financial costs merely to secure adherence to statutory obligations is inconsistent with the principles of:



- **Effective public participation** under the Planning and Development Regulations 2001, and
- **Access to justice in environmental matters** as guaranteed by the **Aarhus Convention** and EU law.

51. The Appellant submits that the imposition of such fees undermines procedural fairness and has a **chilling effect on civil society participation**, at precisely the moment when independent oversight is most necessary.

52. We therefore respectfully highlight this concern to An Bord Pleanála as part of the wider context of the present appeal.

**Yours sincerely,**



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Angela O'Donoghue

Director

Ballyboden Tidy Towns clg

[ballybodenttgroup@gmail.com](mailto:ballybodenttgroup@gmail.com)

c/o 17 Glendoher Close, Rathfarnham, Dublin 16. D16N2Y0

Enclosures follow:

**Note**

\*\*\*Labour cost estimates are based on Department of Public Expenditure & Reform data for public sector pay scales (2012–2013), adjusted for employer PRSI/pension overheads, which bring effective costs to approximately €30–€40 per hour for general operatives and skilled trades. Construction price adjustments use the **CSO Wholesale Price Index for Building and Construction Materials** and **CSO Labour Cost Survey**, which indicate a cumulative increase of approximately 80–90% between 2013 and 2025.



## Appendix 1.

## Core Legal Grounds – Section 5 Appeal

### Seán Keating Garden, Rathfarnham Castle Grounds -Ref: ED25/0063

The Appellant submits that the works undertaken at Seán Keating Garden (2012–2013) constitute **development** and are **not exempted development** under the Planning and Development Act 2000 (as amended), for the following core reasons:

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#### 1. Article 9 Restrictions – Protected Structure & National Monument

- The site lies within the **curtilage of Rathfarnham Castle**, a **Protected Structure** and **National Monument in State ownership**.
  - Article 9(1) of the Planning and Development Regulations disappplies exemption where works materially affect the character of a Protected Structure or its setting.
  - Section 14 of the **National Monuments Act 1930** requires Ministerial consent for any works. No such consent was obtained.  
→ Exemption is therefore legally precluded.
- 

#### 2. Expenditure Threshold Exceeded (Article 80)

- The 2013 works cost approximately **€123,000**, equivalent to **over €220,000 in 2025 terms** (inflation-adjusted).
  - This exceeds the **€126,000 expenditure limit** under Article 80(1) for local authority works.  
→ By statute, the works cannot qualify as exempted development.
- 

#### 3. Failure to Disclose & Procedural Defects

- The Chief Executive's Part 8 Report incorrectly stated that no Section 5 application was lodged. This denied councillors and the public access to material legal information, contrary to **Article 81 of the Regulations** and the **Aarhus Convention**.
  - The omission of cumulative unauthorised works (Cromwell's Fort, playgrounds, plaza) contravenes established case law (*Carrowmore, Moore Street, O'Grianna*) requiring holistic assessment of group impacts.  
→ Exemption cannot stand where procedural fairness and cumulative assessment duties are breached.
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## Conclusion

The Seán Keating Garden works are **development** and are **not exempted development**. They require a retention permission under **Section 34 PDA 2000**, not retrospective validation under Part 8.

### Relief Sought:

That An Bord Pleanála overturn the SDCC determination (Ref: ED25/0063) and declare the works **development and not exempted development**.



Ballyboden Tidy Towns Clg  
C/O 17 Glendoher Close  
Rathfarnham  
Dublin 16

Date: 21-Jul-2025

**PLANNING & DEVELOPMENT ACT, 2000 (as amended) AND PLANNING  
REGULATIONS THEREUNDER**

**Register Reference:** ED25/0063

**Development:** Ballyboden Tidy Towns clg (BBTT) have submitted under Section 5 of the Planning and Development Act 2000, an application to request a declaration as to whether specific works carried out at the Seán Keating Garden (sometimes referred to as the Seán Keating Park), located within the curtilage of Rathfarnham Castle, constitutes exempted development.

The area in question lies adjacent to Rathfarnham Castle, a National Monument in State care, and a Protected Structure; and is also situated adjacent to an Architectural Conservation Area (ACA); and forms part of the landscape character of Rathfarnham Castle. It is our understanding that the following works were carried out without the benefit of planning permission:

1. Formation of a public garden/amenity park, including land grading, introduction of ornamental planting, and structured landscaping.
2. Installation of paved surfaces, hard landscaping, and fixed boundary treatments or kerbing.
3. Construction of an artificial pond and associated infrastructure.
4. Placement of street furniture, signage, and public amenities such as benches and bins.
5. Possible alterations to existing curtilage walls, access routes, or gates.

**Location:** Sean Keating Garden/Park, Rathfarnham Castle Park, Rathfarnham Castle, Rathfarnham, Dublin 14

**Applicant:** Ballyboden Tidy Towns Clg

**App. Type:** Declaration of Exemption Section 5



Dear Sir/Madam,

With reference to the above, I acknowledge receipt of your application received on 21-Jul-2025.

This acknowledgement is issued pursuant to the Planning & Development Regulations 2001(as amended).

Yours faithfully,

MD  
*for* **Senior Planner**



Ballyboden Tidy Towns Clg  
C/O 17 Glendoher Close  
Rathfarnham  
Dublin 16

18-Aug-2025

Dear Sir/ Madam,

**Our Ref:** ED25/0063  
**Re:** Sean Keating Garden/Park, Rathfarnham Castle Park,  
Rathfarnham Castle, Rathfarnham, Dublin 14

I wish to inform you that the proposed development of Ballyboden Tidy Towns clg (BBTT) have submitted under Section 5 of the Planning and Development Act 2000, an application to request a declaration as to whether specific works carried out at the Seán Keating Garden (sometimes referred to as the Seán Keating Park), located within the curtilage of Rathfarnham Castle, constitutes exempted development.

The area in question lies adjacent to Rathfarnham Castle, a National Monument in State care, and a Protected Structure; and is also situated adjacent to an Architectural Conservation Area (ACA); and forms part of the landscape character of Rathfarnham Castle. It is our understanding that the following works were carried out without the benefit of planning permission:

1. Formation of a public garden/amenity park, including land grading, introduction of ornamental planting, and structured landscaping.
2. Installation of paved surfaces, hard landscaping, and fixed boundary treatments or kerbing.
3. Construction of an artificial pond and associated infrastructure.
4. Placement of street furniture, signage, and public amenities such as benches and bins.
5. Possible alterations to existing curtilage walls, access routes, or gates. at the above address is, by Chief Executive's Order PR/1008 dated 18-Aug-2025 , DECLARED EXEMPT and therefore **WILL NOT** require planning permission.

A copy of the Planner's report is enclosed for your information.

Yours faithfully,

*P. Hughes*  
for Senior Planner



# **Comhairle Chontae Atha Cliath Theas**

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

<b>Register Reference:</b>	ED25/0063
<b>Correspondence Name &amp; Address:</b>	Ballyboden Tidy Towns Clg C/O 17 Glendoher Close, Rathfarnham, Dublin 16
<b>Development:</b>	<p>Ballyboden Tidy Towns clg (BBTT) have submitted under Section 5 of the Planning and Development Act 2000, an application to request a declaration as to whether specific works carried out at the Seán Keating Garden (sometimes referred to as the Seán Keating Park), located within the curtilage of Rathfarnham Castle, constitutes exempted development.</p> <p>The area in question lies adjacent to Rathfarnham Castle, a National Monument in State care, and a Protected Structure; and is also situated adjacent to an Architectural Conservation Area (ACA); and forms part of the landscape character of Rathfarnham Castle. It is our understanding that the following works were carried out without the benefit of planning permission:</p> <ol style="list-style-type: none"><li>1. Formation of a public garden/amenity park, including land grading, introduction of ornamental planting, and structured landscaping.</li><li>2. Installation of paved surfaces, hard landscaping, and fixed boundary treatments or kerbing.</li><li>3. Construction of an artificial pond and associated infrastructure.</li><li>4. Placement of street furniture, signage, and public amenities such as benches and bins.</li><li>5. Possible alterations to existing curtilage walls, access routes, or gates.</li></ol>
<b>Location:</b>	Sean Keating Garden/Park, Rathfarnham Castle Park, Rathfarnham Castle, Rathfarnham, Dublin 14
<b>Applicant:</b>	Ballyboden Tidy Towns Clg



# **Comhairle Chontae Atha Cliath Theas**

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

### **Description of Site and Surroundings**

As per particulars submitted, the subject site is located at/comprises Sean Keating Garden/Park, Rathfarnham, located at the junction of the R114 and Castleside Drive and to the north of Rathfarnham Castle (Protected Structure Ref.221) and attendant grounds. The site is located to the east of but outside of the boundary of the Rathfarnham Village including Willbrook Architectural Conservation Area (ACA). The site is accessed from adjacent roadways, with Rathfarnham Main Street and the Rathfarnham Gate development located to the west, commercial development to the north, and the residential developments of Castleside Drive and The Parklands located to the northeast, east and southeast of the site.

### **Proposal**

This is an application requesting a Section 5 declaration under the Planning and Development Act, 2000 (as amended), on whether

*“specific works carried out at the Seán Keating Garden (sometimes referred to as the Seán Keating Park), located within the curtilage of Rathfarnham Castle, constitutes exempted development.*

*The area in question lies adjacent to Rathfarnham Castle, a National Monument in State care, and a Protected Structure; and is also situated adjacent to an Architectural Conservation Area (ACA); and forms part of the landscape character of Rathfarnham Castle. It is our understanding that the following works were carried out without the benefit of planning permission:*

1. *Formation of a public garden/amenity park, including land grading, introduction of ornamental planting, and structured landscaping.*
2. *Installation of paved surfaces, hard landscaping, and fixed boundary treatments or kerbing.*
3. *Construction of an artificial pond and associated infrastructure.*
4. *Placement of street furniture, signage, and public amenities such as benches and bins.*
5. *Possible alterations to existing curtilage walls, access routes, or gates”.*

all at Sean Keating Garden/Park, Rathfarnham Castle Park, Rathfarnham Castle, Rathfarnham, Dublin 14 is or is not development and is or is not exempted development.



# Comhairle Chontae Atha Cliath Theas

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

The Section 5 Declaration application includes:

- A completed Application Form.
- Rathfarnham Stables Part 8 Council Presentation (dated 14/07/25).
- Council Meeting July 2025 – Chief Executive's Report on Public Consultation for Proposed Castle Stables and Courtyard at Rathfarnham (dated 14/07/25).
- Addendum document, titled Section 5 Declaration Request – Sean Keating Garden/Rathfarnham Castle Grounds.

### **Zoning**

The subject site is subject to zoning objectives 'OS' – *'To preserve and provide for open space and recreational amenity'* under the South Dublin County Development Plan 2022-2028.

*County Development Plan Maps - Overlap indicated with the following map layers:*

- Aviation Safeguarding:
  - Bird Hazards – Casement
  - Outer Horizontal Surface - Dublin
  - Outer Horizontal Surface – Casement
- RPS within 100m of site:
  - 212, House & Gateway
  - 215, Old Courthouse
- Specific Local Objective (SLO) within 250m of site:
  - NCBH22SLO1 To carry out sympathetic improvements to the area around and including the Mill Race Bridge in Rathfarnham.

### **Relevant Planning History**

#### **Subject site**

PT8SD240 - Castle Stables and Courtyard at Rathfarnham, Grange Road/Rathfarnham Road, Dublin14 D14 FC62 & D14 XT02.

The development will consist of the refurbishment and change of use of the former stable buildings and former council depot yards, to provide mixed-use cultural/arts/cafe/ restaurant uses together with retail use, WC's, storage areas and a switch room.

1. Works to the building to the north of the castle known as Cromwell's Fort (GFA 269m<sup>2</sup>), and its change of use to two multi-purpose event spaces and associated lobby areas.

The proposed works to include:

- the removal of a modern flat roof covering and the replacement with a pitched roof with zinc finish and rendered masonry gable-ends;
- the removal of the existing solid floor to the southern internal room and replacement with a new insulated floor slab and the insertion of a new raised floor to the northern room;



# **Comhairle Chontae Atha Cliath Theas**

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

the removal of infill blockwork from existing openings and the provision of new windows and doors to existing openings;  
Installation of new services, partitions and repair and repointing works as required, including application of lime render finish.

2. Works to the existing single storey former stable buildings (GFA 591m<sup>2</sup>) within the existing courtyards to the north of the Castle and change of use to cultural/arts spaces, retail, café/restaurant, public toilets and ancillary lobby, storage and services spaces. The proposed works to include:

- the removal of temporary roof coverings and the replacement with slate roof coverings;
- the minor modification of roof profiles above 2no. entrance doorways to provide sufficient head height at entrances;
- the removal of temporary bracing to windows and doors and replacement with new windows and doors to existing openings;
- the insertion of a new opening to the western perimeter wall to provide a new public entrance to the courtyard immediately to the north of the castle, and the closing up of an adjacent existing doorway opening;
- The creation of new openings within dividing walls of the existing stable buildings to provide improved connection between the buildings;
- The construction of a new single-storey mono-pitch extension (GFA 83m<sup>2</sup>) to the northern elevation of a former stable building;
- New insulated floor slabs, installation of new services and repair, repointing and lime render works as required.

3. The provision of a new single storey café and restaurant and ancillary support space (area GFA 528m<sup>2</sup>) within the former council depot yards comprising:

- The demolition of a section of wall to the north-west to provide access between the proposed restaurant dining area and back of house areas;
- The construction of a single storey mono-pitch structure in the north-west corner including clerestory windows facing north and west along the existing perimeter walls of the site to provide a café/restaurant dining area, and an associated single storey flat-roof structure to the north to provide ancillary support to the café/restaurant, including kitchens, staff and visitor WCs;
- The provision of an internal plant room to the rear;
- The provision of external ancillary support areas including a screened bin store, screened plant enclosure at ground level and screened rooftop plant enclosure;
- The provision of two new openings within the existing western perimeter wall to facilitate the insertion of secure entrance gates, to provide staff, deliveries and bin store access to the rear of the ancillary space and bin storage areas;
- The provision of four new openings within the existing western perimeter wall to facilitate the insertion of new glazed window openings to the café/restaurant;
- Repairs and repointing to the existing walls as required.



# **Comhairle Chontae Atha Cliath Theas**

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

4.The provision of new, single storey, slated roof structures to the existing structures (GFA 33m<sup>2</sup>) to the north of the building known as the Seismograph Building consisting of:

- A secure bike store area and provision of 10no. long term bicycle storage spaces including 1no. enlarged bicycle space for a cargo bike;
- A secure bin storage area for the retail spaces;

5.The demolition and reconstruction of the walls to the north and west of the northernmost former depot yard;

6.The provision of a new car park on part of the Sean Keating garden adjacent to the boundary with Castleside Drive, with entry from the existing Rathfarnham Road car park, including:

- the demolition of 2no. existing gate posts and part of the adjacent existing garden wall and railings, and the removal of 14no. existing trees to facilitate the construction of a new pedestrian and vehicular entrance, pedestrian footpath and delivery drop-off area;

- the regrading and releveling of the existing sunken pond and garden area to provide 54 no. car parking spaces (including 4no. accessible parking spaces and 10 no. EV parking spaces) and 42 no. short-term bicycle parking spaces to the north of the site and associated landscaping;

- The reconfiguration of the existing pedestrian entrance gate and new hard and soft landscaping to the north-west corner of the site to facilitate improved pedestrian access;

7.All associated site services, site development works and landscaping comprising:

Removal of temporary cabin structures from the existing former council depot yards and associated site clearances;

The construction of new gated entrance and railings between Rathfarnham Castle forecourt and the proposed site;

The removal of 4no. car spaces from the existing Rathfarnham Road car park to provide a new enlarged pavement area adjacent to the entrance to the Café/Restaurant;

The reallocation of the existing bus set down area to accommodate a universally accessible set down area;

The local regrading of the footpath within the Rathfarnham Road car park along the perimeter wall to the west of the courtyards to provide accessible entrance points to the courtyards;

The removal of part of southern end of the existing low level boundary wall between the existing car park and Rathfarnham Road to facilitate a new raised table and improved pedestrian crossing point; installation of a new access control gate to the carpark entrance from Rathfarnham Road;



# **Comhairle Chontae Atha Cliath Theas**

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

The regrading and relevening of the existing surfaces to facilitate universal access throughout the site

The provision of new hard and soft landscaping to the existing courtyards;

The provision of new secure entrance gates to the existing openings between the park and courtyards;

The infilling with masonry construction of an existing unused entrance between the northern courtyard and the park to facilitate the regrading of the courtyard.

Installation of new drainage, attenuation and site services and associated trenching and reinstatement works.

Installation of new external site lighting to the car parking areas and courtyard spaces;

Repairs and repointing of existing structures throughout, as required.

Part 8 approved.

### **Relevant Enforcement History**

None found.

### **Legislative Context**

#### ***Planning and Development Act 2000 (as amended)***

In this Act, except where the context otherwise requires –

#### **Section 2(1)**

*"Works includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."*

#### **Section 3(1)**

*"Development" in this Act means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.*

#### **Section 4**

##### **Section 4(1):**

The following shall be exempted developments for the purposes of this Act:

*(aa) "development by a local authority in its functional area (other than, in the case of a local authority that is a coastal planning authority, its nearshore area);"*

*(f) "development carried out on behalf of, or jointly or in partnership with, a local authority, pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity;"*

*(1B) Development referred to in paragraph (a), (d), (e) or (g) of subsection (1A) shall not be exempted development if an environmental impact assessment of the development is required.*



# **Comhairle Chontae Atha Cliath Theas**

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

*(1C) Development referred to in paragraph (a), (d), (e) or (g) of subsection (1A) shall not be exempted development if an appropriate assessment of the development is required.*

### **Section 4(2)(a):**

*"The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that –*

*by reason of the size, nature, or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or the development is authorised, or is required to be authorised, by or under any enactment."*

### **Section 4(2)(b):**

*"Regulations under paragraph (a) may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations."*

### **Section 4(2)I:**

*"Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a) provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purposes being exempted development for the purposes of this Act".*

### **Section 4(4):**

*"Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required".*

## **Planning and Development Regulations 2001 (as amended)**

### **Article 6(3)**

*"Subject to article 9, in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985), development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1".*

### **Article 9(1)**

*"Development to which Article 6 relates shall not be exempted development for the purposes of the Act – 9(1)(a) – if the carrying out of such development would" conflict with the restriction on exemptions as outlined between (i) – (xii) of the regulations.*



# **Comhairle Chontae Atha Cliath Theas**

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

### **Part 2 – Exempted Development**

#### **Schedule 2, Part 1 – Exempted Development – General**

The following classes shall be exempted developments, subject to compliance with the relevant Conditions and Limitations of same: Classes 1 – 61.

### **Part 8 - Requirements In Respect Of Specified Development By, On Behalf Of, Or In Partnership With Local Authorities**

#### **Assessment**

Consideration as to whether a development constitutes exempted development or not is governed by Sections 3, 4 and 5 and 57 of the Planning and Development Act 2000 (as amended) and Articles 5, 6, 7, 8, 9, 10 and 11 of the Planning and Development Regulations 2001 (as amended).

#### **Is the proposal development?**

Section 3(1) of the Planning and Development Act 2000, defines 'development' as  
*'the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.'*

Separately, the term 'works' is defined in Section 2(1) of the 2000 Act as  
*'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.'*

It is considered that the subject development as detailed in the submission would constitute works, and is therefore 'development', as defined in Section 3(1) of the Planning and Development Act, 2000 (as amended).

#### **Is the proposal exempted development?**

The works subject to this Section 5 application, as stated in particulars submitted with this application, comprise the

- *Formation of a public garden/amenity park, including land grading, introduction of ornamental planting, and structured landscaping.*
- *Installation of paved surfaces, hard landscaping, and fixed boundary treatments or kerbing.*
- *Construction of an artificial pond and associated infrastructure.*
- *Placement of street furniture, signage, and public amenities such as benches and bins.*
- *Possible alterations to existing curtilage walls, access routes, or gates*

at the Sean Keating Garden/Park, located within the curtilage of Rathfarnham Castle.

It is considered that the subject works as detailed in the submission would fall within the scope of exempted works under the provisions of Section 4(1)(aa) of the Planning and Development Act, 2000 (as amended), being development by a local authority in its functional area (other than, in the case of a local authority that is a coastal planning authority, its nearshore area). In this regard it is noted that, as confirmed by SDCC



# **Comhairle Chontae Atha Cliath Theas**

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

Climate Action directorate, said works were carried out and completed in 2013 (with the park opened in June 2023), by direct labour following inhouse design, at a cost of €123,000.

In the interest of clarity, costing is stated with respect to the provisions of Article 80(1) of the Planning and Development Regulations, 2001 (as amended), relating to development prescribed for purposes of section 179 of Act (pertaining to Local Authority own development), which states that

*"Subject to sub-article (2) and sub-section (6) of section 179 of the Act, the following classes of development, hereafter in this Part referred to as "proposed development", are hereby prescribed for the purposes of section 179 of the Act —*

- (k) any development other than those specified in paragraphs (a) to (j), the estimated cost of which exceeds €126,000, not being development consisting of the laying underground of sewers, mains, pipes or other apparatus".*

### **Article 9 restrictions**

Article 9 lists a number of circumstances whereby development falling within the scope of Article 6 of the Planning and Development Regulations, 2001 (as amended) will not be exempt. Development which is exempt under Section 4 of the Planning and Development Act, 2000 (as amended) is not subject to the restrictions on exemptions as set out under Article 9 of the Planning and Development Regulations, 2001 (as amended).

### **Environmental Impact Assessment (EIA) and Appropriate Assessment (AA):**

The EIA and AA requirements as set out under Section 4(1A) of the Planning and Development Act, 2000 (as amended) do not apply to Section 4(1) of the Act. Notwithstanding same, having regard to the nature and scale of works subject to this Section 5 Declaration application, as detailed, the location of the site, and distance from European sites, it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required. In addition, Having regard to the nature and extent of the proposed development, and the distance of the site from nearby sensitive receptors, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination.

### **Conclusion:**

Having regard to the provisions of Section 4 of the Planning and Development Act 2000 (as amended), and Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended), it is considered that the

- *Formation of a public garden/amenity park, including land grading, introduction of ornamental planting, and structured landscaping.*



# Comhairle Chontae Atha Cliath Theas

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

- *Installation of paved surfaces, hard landscaping, and fixed boundary treatments or kerbing.*
- *Construction of an artificial pond and associated infrastructure.*
- *Placement of street furniture, signage, and public amenities such as benches and bins.*
- *Possible alterations to existing curtilage walls, access routes, or gates”.*

all at Sean Keating Garden/Park, Rathfarnham Castle Park, Rathfarnham Castle, Rathfarnham, Dublin 14 **is development** and **is exempted development**.

### **Recommendation**

Having regard to the provisions of Section 4(1)(aa) of the Planning and Development Act 2000, as amended, it is recommended that the applicant be notified that the

- *Formation of a public garden/amenity park, including land grading, introduction of ornamental planting, and structured landscaping.*
- *Installation of paved surfaces, hard landscaping, and fixed boundary treatments or kerbing.*
- *Construction of an artificial pond and associated infrastructure.*
- *Placement of street furniture, signage, and public amenities such as benches and bins.*
- *Possible alterations to existing curtilage walls, access routes, or gates”.*

all at Sean Keating Garden/Park, Rathfarnham Castle Park, Rathfarnham Castle, Rathfarnham, Dublin 14 **is development** and **is exempted development**.




# **Comhairle Chontae Atha Cliath Theas**

**PR/1008/25**

## **Record of Executive Business and Chief Executive's Order**

**Register Reference: ED25/0063**

**Location: Sean Keating Garden/Park, Rathfarnham  
Castle Park, Rathfarnham Castle, Rathfarnham, Dublin 14**

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**Barry Coughlan,  
Executive Planner**

**ORDER:** That the applicant be informed that the proposed development of:

**Ballyboden Tidy Towns clg (BBTT) have submitted under Section 5 of the Planning and Development Act 2000, an application to request a declaration as to whether specific works carried out at the Seán Keating Garden (sometimes referred to as the Seán Keating Park), located within the curtilage of Rathfarnham Castle, constitutes exempted development.**

**The area in question lies adjacent to Rathfarnham Castle, a National Monument in State care, and a Protected Structure; and is also situated adjacent to an Architectural Conservation Area (ACA); and forms part of the landscape character of Rathfarnham Castle. It is our understanding that the following works were carried out without the benefit of planning permission:**

- 1. Formation of a public garden/amenity park, including land grading, introduction of ornamental planting, and structured landscaping.**
- 2. Installation of paved surfaces, hard landscaping, and fixed boundary treatments or kerbing.**
- 3. Construction of an artificial pond and associated infrastructure.**
- 4. Placement of street furniture, signage, and public amenities such as benches and bins.**



# **Comhairle Chontae Atha Cliath Theas**

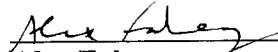
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## **Record of Executive Business and Chief Executive's Order**

**5. Possible alterations to existing curtilage walls, access routes, or gates. at Sean Keating Garden/Park, Rathfarnham Castle Park, Rathfarnham Castle, Rathfarnham, Dublin 14**

is considered to be exempted development under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) and therefore **does not** require planning permission.

**Date:** 18/08/2025

  
**Alex Fahey,**  
**Senior Executive Planner**

To whom the appropriate powers have been delegated by the order number DELG (12724) of the Chief Executive of South Dublin County Council\*



## Section 5 Declaration Request – Seán Keating Garden / Rathfarnham Castle Grounds

Ballyboden Tidy Towns clg (BBTT) have submitted under Section 5 of the Planning and Development Act 2000, an application to request a declaration as to whether specific works carried out at the Seán Keating Garden (sometimes referred to as the Seán Keating Park), located within the curtilage of Rathfarnham Castle, constitutes exempted development.

The area in question lies adjacent to Rathfarnham Castle, a National Monument in State care, and a Protected Structure; and is also situated adjacent to an Architectural Conservation Area (ACA); and forms part of the landscape character of Rathfarnham Castle. It is our understanding that the following works were carried out without the benefit of planning permission:

1. Formation of a public garden/amenity park, including land grading, introduction of ornamental planting, and structured landscaping.
2. Installation of paved surfaces, hard landscaping, and fixed boundary treatments or kerbing.
3. Construction of an artificial pond and associated infrastructure.
4. Placement of street furniture, signage, and public amenities such as benches and bins.
5. Possible alterations to existing curtilage walls, access routes, or gates.

To our knowledge, no planning permission is on file for these works, nor has any Part 8 approval process been documented historically to regularise this development and/or works pertaining to outbuildings and Cromwell's Fort.

We reserve the right to make a further Section 5 application concerning *works* to the Rathfarnham Castle Outbuildings and Cromwell's Fort as an information request for the necessary records has not been actioned by SDCC and we have recently learnt that extensive structural renovations that happened during 2017-2018 may have been completed without planning permission and may represent a pattern of non-compliance and unauthorised development.

Given the location of the site within the curtilage of Rathfarnham Castle, a National Monument in State Care and a Protected Structure, BBTT submits that:

- The works constitute "development" under Section 3 of the Planning and Development Act 2000.
- Exemption is removed under Article 9(1)(a)(vii) and (viii) of the Planning and Development Regulations 2001, as the works materially affect the character of a protected structure and involve excavation within its curtilage.

- Ministerial consent under the National Monuments Acts is required for any works in or affecting the monument or its setting.
- Relevant case law (e.g. Carrowmore, Moore Street, Coyne v ABP) establishes that failure to consider cumulative heritage impacts or legal status may invalidate related planning or development decisions.

BBTT further note that most of the works in connection with this application appear to have been undertaken circa 2012–2013 and involved excavations, drainage works, foundations, and insertion of hard landscaping, all of which may require assessment under both planning law and national monuments legislation.

Historic maps show the presence of a well in or near the affected site, raising additional heritage and hydrological concerns, Dodder watercourse concerns, and Natura 2000 concerns.



Source: Ordnance Survey map, 1910. Map service generated from Historic 25-inch Raster mapping dated 1897-1913. Between 1888 and 1913 Tailte Éireann completed the first ever 25-inch survey of an entire country. Acclaimed for their accuracy, these maps are regarded by cartographers as amongst the finest ever produced.

## Water Framework & EU Habitats Directive Concerns

The site lies within the catchment of the River Dodder, and historic mapping confirms the presence of a well in or near the affected area. These elements may form part of the local hydrological system. It is noted that this well may be hydrologically connected to the River Dodder catchment. Any excavation, drainage works, or alteration to ground conditions within this zone may therefore require assessment under the **Water Framework Directive (2000/60/EC)**.

Under Article 4 of the Directive, Member States must prevent deterioration of the status of all bodies of surface water and groundwater. Works that involve ground disturbance, alteration to soakage, or potential discharges (such as from an artificial pond) may compromise this objective.

No record of screening or assessment under the Directive has been provided to date in relation to the Seán Keating Garden development. This omission raises additional environmental and procedural compliance concerns, especially given the sensitive character of the site.

In this context, BBTT respectfully submit that works in this area may require screening under the Water Framework Directive (2000/60/EC). Under Article 4, Member States must prevent deterioration of the status of surface water and groundwater. No such screening appears to have been undertaken for the Seán Keating Garden development, raising further procedural and environmental compliance concerns.

Furthermore, as the River Dodder is an otter-rich watercourse, and otters are a species protected under Annex IV of the **EU Habitats Directive** (92/43/EEC), there is an obligation to assess any potential impacts on protected species or nearby Natura 2000 sites. Any hydrological link to the Dodder could trigger the need for appropriate assessment under Article 6(3) of the Directive.

## Implications of Whitchurch Supreme Court Ruling for Part 8 and Unauthorised Base Development

The absence of a defined lifespan for the associated Part 8 process heightens the legal and planning importance of this Section 5 determination. If the underlying Seán Keating Garden development is unauthorised, (and/or any other works to other structures onsite carried out by SDCC in 2017 and 2018 on outbuildings and Cromwell's Fort), such works and any continuing reliance upon it — particularly in the context of an open-ended Part 8 resolution — may perpetuate a breach of Section 34(13) of the Planning and Development Act 2000.

The decision of the Supreme Court in the **Whitchurch Flood Alleviation Scheme case** confirms that planning permissions or approvals — including those under the Part 8 process — must be assessed considering the **absence of fixed duration**, the **need for contemporaneous environmental screening**, and the **prohibition on legitimising unauthorised base development**. This reinforces the urgent need for a formal Section 5 declaration regarding the planning status of the Seán Keating Garden, to avoid perpetuating legal and environmental non-compliance.

## Additional Note

On 26 June 2025, the required €80 fee to South Dublin County Council was submitted to SDCC. An acknowledgement receipt confirming payment is on record with the Planning Department. The document clearly identified the Seán Keating Garden as the subject of the declaration request.

## SECTION 5- A DDENDUM

Due to the detailed nature of the planning and heritage issues involved, and the necessity to compile maps, historical research, and photographic documentation, the supporting materials were finalized and are being formally submitted on 19 July 2025.

BBTT respectfully request that the Council regard this Section 5 application as having been validly lodged and initiated on 26 June 2025.

We note with concern that the Chief Executive Report issued in relation to the adopted Part 8 proposal failed to acknowledge this Section 5 query and our concern, despite the payment, email sent to the Planning Department acknowledging receipt of fee and the issue being raised in our public submission. This raises serious concerns under Section 34(13) of the Planning and Development Act 2000 and relevant case law, as any development adopted under Part 8 cannot lawfully rely on an unauthorised base development.

Given that the works forming the basis of this query occurred circa 2012–2013 and involved foundations, drainage, and ground disturbance within the curtilage of a National Monument and Protected Structure, BBTT submit that the question of whether such development is exempt requires urgent clarification and a formal declaration from the Council.

### References:

Planning and Development Act 2000 (as amended)

Planning and Development Regulations 2001 (as amended), Article 9

National Monuments Acts 1930–2004

Water Framework Directive (2000/60/EC)

EU Habitats Directive (92/43/EEC), including Article 6(3)

*Moore Street Conservations Group v Minister for Environment* [2016] IEHC

*Coyne v An Bord Pleanála* [2019] IEHC 122

*Whitchurch Flood Alleviation Scheme – Supreme Court Judgment*, [2024] IESC, our case concerning Strategic Infrastructure Development, environmental screening, and the legal effect of indefinite permissions

## Location Maps, Photographs, Drawings & Supporting Details

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BEFORE



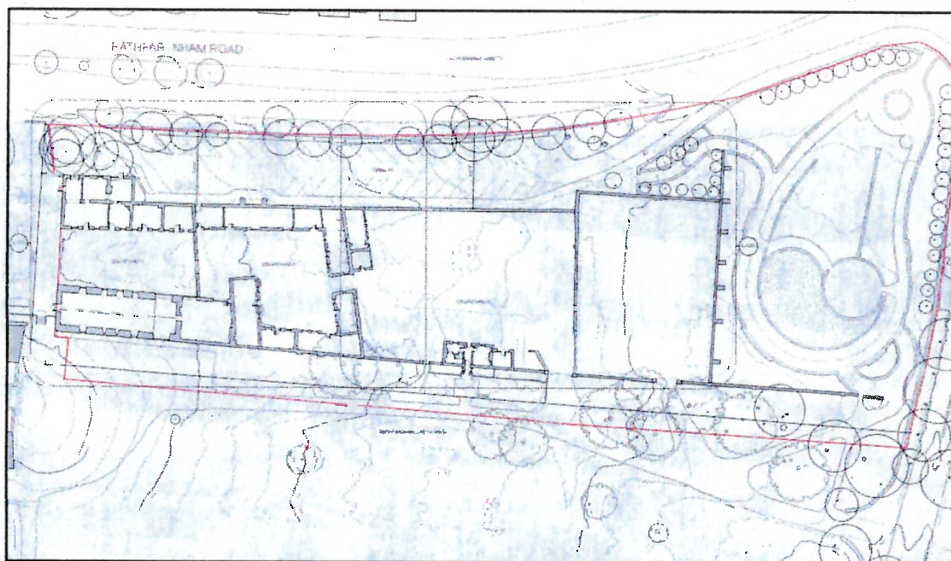
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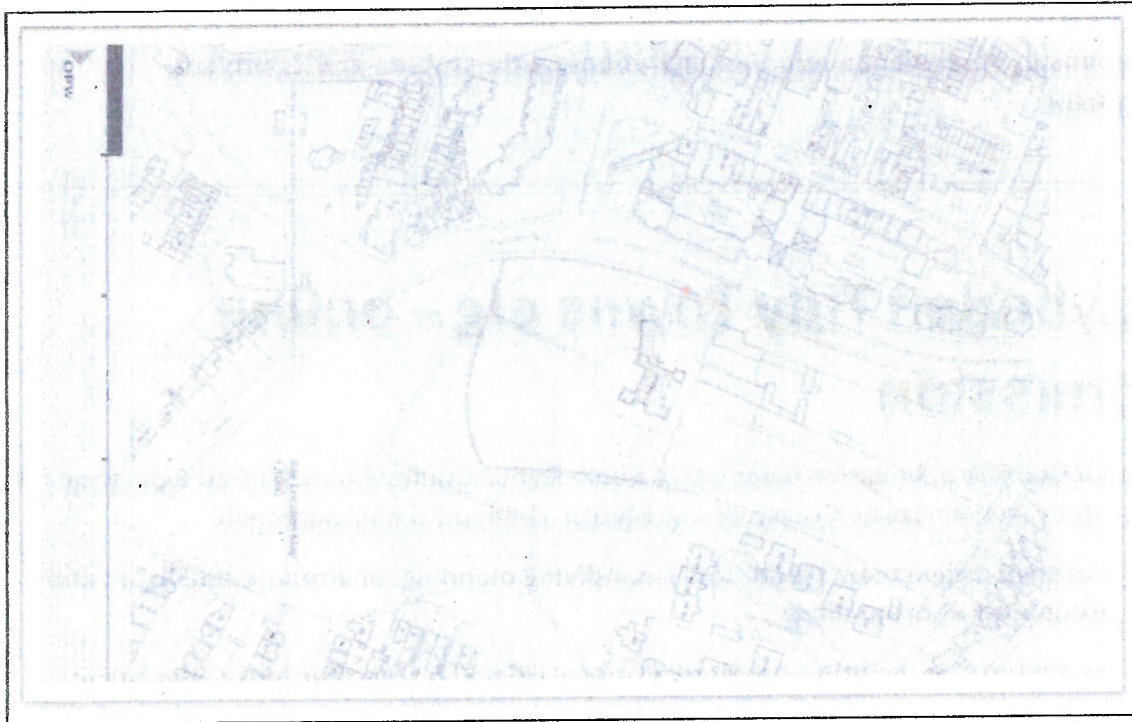
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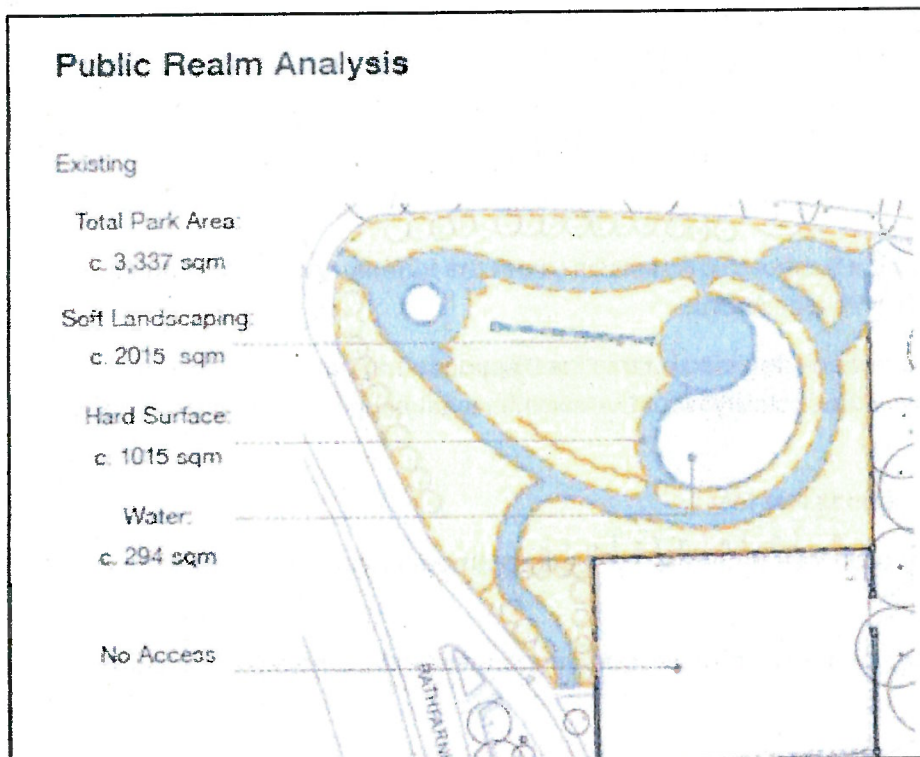


## BEFORE



## AFTER:

Detail of Sean Keating Park/Garden



## The Part 8 Rathfarnham Castle Stables and Courtyard - link

<https://consult.sdublincoco.ie/en/consultation/castle-stables-and-courtyard-rathfarnham>

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## Ballyboden Tidy Towns clg – online submission

**1. Introduction** This submission responds to South Dublin County Council's Part 8 proposal for works at Rathfarnham Castle Courtyard and Stables. It adopts a dual approach:

- **A critical assessment ("Bad Cop") identifying planning, environmental, legal, and procedural shortcomings.**
- **A constructive, solution-oriented proposal ("Good Cop") offering an alternative vision rooted in cultural heritage, landscape sensitivity, and sustainable mobility.**

### 2. "Bad Cop" – Key Non-Compliance Issues

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#### 2.1 Seán Keating Garden – Legal Status Unclear

The garden was created c. 2012–13 with no planning permission yet is depicted as authorised. This misrepresentation violates Section 34(13) of the Planning Act.

Proposed removal of walls and mature planting, and infill of pond for car park—no Ministerial/OPW approval, violating National Monuments curtilage rules.

#### Initiative-taking Note:

It is our intention to submit a Section 5 declaration under the Planning and Development Act 2000 concerning the garden's legal status.

We request that SDCC defer any decision on this Part 8 application pending the Section 5 outcome, as proceeding without clarity would undermine legality under Section 34(13) and risk a judicial review.

#### 2.2 Heritage & ACA Obligations Not Met

The proposal lacks an appropriate Architectural Heritage Impact Assessment and does not follow 2011 guidelines.

The Seismograph House, Turner glasshouse, and courtyard walls are ignored in plans and heritage reviews.

### 2.3 Environmental Failings

The Glin/Whitechurch River is omitted from EIAR and NIS documentation.

No cumulative impacts assessed—contravenes EIA Directive and case law (Coyne v ABP).

### 2.4 Utility Restrictions & Traffic

The Transport Impact Assessment does not consider combined effects of the car park and BusConnects route.

Irish Water Capacity Confirmation for non-domestic use is absent; feasibility studies alone are insufficient.

### 2.5 Public Process Defects

Invitation-only workshops violate Aarhus Article 6.

Misinformation and hidden documentation restrict meaningful public participation.

## 3. "Good Cop" – Cultural & Heritage Vision

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### 3.1 Resurrect Irish Science Legacy

#### Seismograph House

Rathfarnham was the site of Ireland's first home-built seismograph (1915) by Fr. W.J. O'Leary SJ, with the original instrument held by DIAS.

Proposal: Legally mandate its restoration with museum accreditation and support from DIAS and engineering experts.

#### Astronomy & STEM Hub

Install two portable telescopes and one dome telescope, linked to educational programmes—mirroring the successful Blackrock Castle Observatory model, which attracts strong public engagement.

### 3.2 Honour the Horticultural Heritage

#### Moore Family Garden

Create a heritage planting scheme using the rescued Moore planting diary to celebrate David and Sir Frederick Moore – enhancing biodiversity and public engagement.

#### Turner Glasshouse & Courtyard Walls

Recover and reconstruct the original 19th-century glasshouse with conservation-led methods.

Restore courtyard walls using reclaimed stone under SDCC Conservation Officer oversight.

### 3.3 Scale Back Retail & Parking

Restrict car parking to disabled-access only, preserving ~70–80% of the garden.

Limit café/retail footprint to 15–20% integrated with interpretive heritage context.

### 3.4 Strengthen Public Realm & Village Connections

Build DMURS-compliant shared walkways linking the Castle, bus route, and village centre.

Integrate interpretive signage, seating nodes, and green corridors.

Condition the submission of a community-led village revitalisation plan, referencing Irish Architecture Foundation and Heritage Council models.

#### 4. Policy Alignment & Best Practice

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Our approach aligns with SDCC Development Plan policies for context-sensitive design, heritage tourism, and public realm quality.

Demonstrates compliance with Heritage Protection, EIA, Aarhus, Monuments Act, and national and local planning laws.

Builds upon successful models like Blackrock Castle Observatory, which receive substantial visits and cultural engagement.

National heritage visitation exceeded 13.8 million in 2024, confirming public appetite for such sites.

#### 5. Planning Conditions (Recommendations)

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- Defer Part 8 decision until Section 5 is determined.
- Obtain Ministerial/OPW consent for Seán Keating Garden changes.
- Museum accreditation for seismograph installation with DIAS partnership.
- Engineering evaluation and installation plan for astronomy equipment.
- Conservation leadership for glasshouse and wall reconstruction.
- Car park size limitation and disabled-only restriction.
- Café/retail capped and heritage tied.
- DMURS-aligned shared space design with village integration.
- Community-led town centre health check to inform wider village renewal.

This combined approach—asserting compliance deficits while offering an inspiring cultural and heritage vision—positions Rathfarnham Castle to become a unique destination. It would preserve sensitive heritage, foster science and horticulture, drive local economic regeneration, and align fully with policy frameworks.

#### 6 Additionalities and context

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##### A. Wider Connections & Public Realm Integration

While the Part 8 ownership boundaries are limited to the red-line site, it is crucial that the activation of Rathfarnham Castle does not isolate it from Rathfarnham Village or the recently approved BusConnects Core Bus Corridor. Currently, the draft fails to establish meaningful physical or visual links; this risks the Castle operating as a cultural island, disconnected from the social and economic life of the Village.

Recommended Planning Conditions for Cohesion:

- Shared-Space Design Compliance (DMURS)
- Require pedestrian-first connections between the Castle, the Village, and BusConnects stops.

These should follow best-practice principles outlined in the Design Manual for Urban Roads & Streets, including safe, attractive, multi-modal pathways, traffic calming, and placemaking improvements.

#### B. Community-Led Village Health Check

Embed within the Part 8 decision a condition mandating a Town Centre Health Check, such as the Heritage Council's Collaborative Health Check or the Irish Architecture Foundation's Reimagine programme.

This approach ensures the Castle's development aligns with the social, cultural, and economic dynamics of Rathfarnham Village, reinforcing cohesive planning and policy delivery.

#### 7. Rationale for Integration

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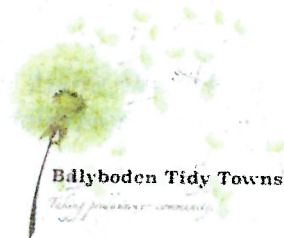
- DMURS emphasizes creating vibrant, pedestrian-led streets through placemaking and balanced designs.
- Township "Health Check" models are nationally recognized frameworks to audit, design, and implement town centre regeneration strategies.

#### Summary

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By incorporating these planning conditions, and addressing the issues we have raised the Part 8 could potentially and successfully:

- Reconnect Rathfarnham Castle with the Village and public transport network,
- Foster a welcoming public realm that encourages residents and visitors to move freely and engage with local businesses,
- Align with national and local placemaking policies around sustainable urbanism, heritage preservation, and community-led regeneration.
- This integrated approach ensures the heritage project becomes a catalyst for Village vitality—not a standalone development.

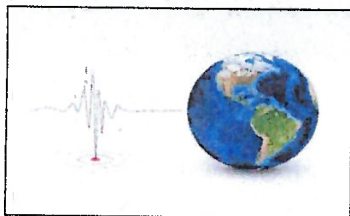


Ballyboden Tidy Towns

### The 'Home' of Seismology

The Jesuits during their time in Rathfarnham put Rathfarnham Castle on the map in the world we know as STEM. Their achievement in Seismology in Rathfarnham Village reverberated around the world. They had two Seismographs, one was a Milne Shaw but the one built by Fr. William O'Leary in 1916 was for many years the only one of its kind in existence—making Rathfarnham 'the home of seismology' where the engineering of earthquakes was being documented and studied. The room which housed this ground-breaking innovation is still there and the markings and the base of the seismograph is still in-situ and undisturbed. The original Seismograph is now housed by the Dublin Institute for Advanced Studies - DIAS.

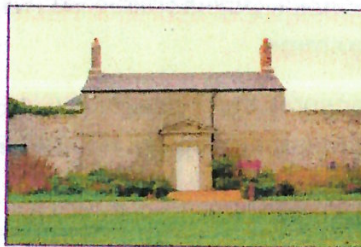
The Jesuits had telescopes too and so the level of scientific study and research carried out in Rathfarnham Castle was literally earth shattering and astronomical in breadth of scientific interest. Park users have walked by this empty building not knowing anything about this 'international scientific jewel'. For a while it housed Conservation Volunteers and subsequently the Tree Council of Ireland but sadly its illustrious past is long forgotten. It is time that we bring back Science to Rathfarnham Castle.



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## The Seismograph House @ Rathfarnham Castle



### Our Proposal

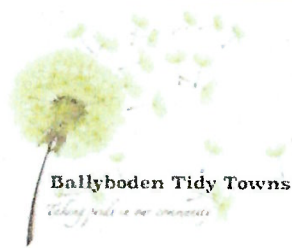
We propose the Rathfarnham Seismographs return back to Rathfarnham Castle – be it the original or a replica and/or accompanied by the introduction of a modern day seismograph. We propose the installation of 3 telescopes – 2 portable and 1 stationary in a rolling building/dome with an exhibition space and an education hub within the Rathfarnham Castle Compound that is in the charge of SDCC.

An exhibition space that shows off the seismographs, telescopes, together with displays of historic seismographs, meteorites, and other historical seismic and astronomical artefacts perhaps associated with the Jesuits thus giving the Castle back a 'space' that connects with these disciplines that it was once renowned for. By maintaining STEM relevance, the seismograph and the telescopes are both modern and functional, ideal for observing at open nights, or seismic school projects located within an educational STEM HUB.

This is a Castle that has historically promoted scientific curiosity. We need a historical and living exhibition space, reflective of the legacy of Rathfarnham Castle and located in the outer buildings. Regrettably recently proposed development plans by SDCC have identified the Seismograph House as a potential Yoga House but the protected fixtures and fittings of the Seismograph House must be under planning law retained and protected in-situ. So instead let's open the doors to the Seismograph House once again and together create a new legacy – the Rathfarnham Castle Science Centre.

### Successful Precedent

There is a precedent for this type of scientific, educational, tourism, economic and cultural endeavour located at Blackrock Castle in Cork. The Blackrock Castle Observatory [www.bco.ie](http://www.bco.ie) is a remarkable achievement for Cork County Council. This short film <https://youtu.be/o-oZNFzkcM> tells you more about the possibilities and opportunities we could enjoy locally. We have been overwhelmed with the support from the science community resulting in access to valuable research and technical resources. Scientific organisations have expressed a readiness to assist us.. We need this 'space'. If you build it they will come (Field of Dreams) luckily for us the Jesuits have already built it.



### Our Proposal

We are proposing a tribute garden in honour of the Moore Family who lived in Willbrook House on Whitechurch Road, Rathfarnham. This project has been in development since 2007 and enjoys the support of the National Botanic Gardens - Glasnevin, The Irish Garden Plant Society and the Irish Wildlife Trust. Not only did Christy Boylan, former Head of the SDCC Parks Department support this project but he proposed the Rathfarnham Walled Garden location in 2007 for this project. He informed us that SDCC had purchased a famous Turner Glasshouse that could be used as part of this project as he had purchased it specifically for Rathfarnham.

The problem was SDCC did not have the budget to finish such an imaginative project and so after Christy Boylan retired, the Walled Garden was named after Sean Keating, the artist and has over time fallen into a state of neglect. Somewhere in SDCC there is a Turner Glasshouse in storage and elsewhere in SDCC there are plans to rip out this Walled Garden and replace it with a Car Park. We have a better vision and SDCC at one stage, shared that 'better vision' too.

### A Tribute Garden – A Formal Garden

The site for this proposed garden, is the existing Walled Garden at Rathfarnham Castle, now known as the Sean Keating Garden and is in the ownership of SDCC. Christy Boylan proposed this site as a more suitable location to the original site proposed on Taylor's Lane in 2007 for this Heritage Project. By taking the existing form of the Sean Keating Garden, complimented by the Moore Garden enhanced by the adjoining contextual setting of Rathfarnham Castle - a unique popular complimentary public space is created. In plain speak a Horticultural Heritage Garden and an outdoor Artistic Sculptural Exhibition space creates 'stickiness' that visitors will come often and 'stick' around Rathfarnham Castle and Village.

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## The Moore Garden @ Rathfarnham Castle



### The Moore Family & the Potato Blight

Sir Frederick Moore and his father David Moore served as Curators of the National Botanic Gardens and the 'The Moore Lecture' is hosted in their honour every year in Glasnevin. Sir Frederick Moore is credited for setting up a world-renowned collection of orchids as well as introducing many new plants to Ireland from abroad. David Moore had a keen interest in Irish Native plants and collected hundreds of specimens. He edited with A.G. More, Contributions towards a Cybele Hibernica - an account of the distribution of plants in Ireland, 1866. David Moore was the first person to identify the Irish Potato Blight and predict its consequences in August 1845. You can also see on Whitechurch Road one of the two original locations where Mistletoe was introduced to Ireland - still there growing quietly unnoticed by the passerby.

Willbrook House is where the Moore Family lived and their home saw a constant stream of many famous Plant Collectors visit. Lady Moore was an avid Plant Collector with several plants named after her. She also mentored and nurtured many a keen student - David Shackleton was just one of her protégés. Lady Moore and Sir Frederick Moore are seen as the 'Godparents of all Irish Gardeners'. Charles Nelson in his book 'A Heritage of Beauty' refers to Lady Moore 'as the grande dame of Irish horticulture'. In the world of horticulture the Moore contribution is recognised and revered both nationally and internationally. In Sydney, Charles Moore, brother of David served as Director of the Royal Botanic Gardens, for 48 years and is attributed to developing much of what can be seen now in their Botanic Gardens in Sydney.

### The Rescue of the Lost Planting Diary

We have rescued the original planting diary of Sir Frederick Moore from Willbrook House which details precisely every single plant he and Lady Moore collected and what plants they were gifted and by whom. It is a remarkable detective piece of work and a *who's who* of botanical royalty. A thoughtful planting scheme that showcases Irish Cultivars, including those plants associated with the Moore Family, in a way that contributes to their preservation will automatically promote local biodiversity and national heritage.

