

# An Bord Pleanála



## Inspector's Report

**Appeal Reference No: PL29S.246470**

**Development:** Permission sought for (i) change of use to mixed-use facility comprising retail (coffee shop and florist) and community / cultural / funeral services (class 2), (ii) part demolition (71-sq.m), (iii) construction of a single-storey flat roofed rear infill extension (269-sq.m) with 6no. roof lights, (iv) internal and external alterations, including refurbishment of front façade, comprising a featured main entrance centred on the front elevation, own door entrance to coffee shop, cut stone and timber shop front to coffee shop and florist, (v) fascia level signage boards to front and rear elevations, (vi) widening of 2no. existing vehicular entrances, (vii) provision of 22no. on-site car parking spaces including 4no. disable accessible spaces, (viii) hard and soft landscaping, and (ix) SuDS drainage and all associated works.

**Address:** Former health centre, Ballyfermot Road, Ballyfermot, Dublin 10

### Planning Application

Planning Authority:	Dublin City Council
Planning Authority Reg. Ref.:	3676/15
Applicant:	Lemford Ltd
Planning Authority Decision:	Grant permission subject to 11no. conditions

### Planning Appeal

Appellant(s):	Larry Massey Funeral Directors
Type of Appeal:	Third party appeals against decision

Observers: None

Date of Site Inspection: 15/06/16

**Inspector:** John Desmond

## **1.0 SITE LOCATION AND DESCRIPTION**

The application site is located the west of Dublin City Council, c.1.7km east of the M50, 1.4km north of the Grand Canal and c.400m west of the centre of Ballyfermot, on the north side of Ballyfermot Road, the R833. The surrounding area contains a wide range of land uses and land use zones, with extensive suburban residential housing.

The application site has a stated area of 2787sq.m. It is the grounds of the former Eastern Health Board Clinic, a single storey building. The main building is of a design that I would date to the interwar period, with the detached structures to the west of the site of 1970's vintage. Additional land (c.1400-sq.m) within the same enclosed space is external of the application site but are under the control of the applicant and also contains single-storey structures. The combined lands are enclosed by railings atop a stub wall to the north, east and south where they abut the public road (Drumfinn Avenue to the north, Drumfinn Road to the east and Ballyfermot Road to the south). The application site has vehicular access to the south and east, which it shares with the neighbouring site. There is an addition separate entrance to the rear of the wider landholding, but it is not accessible from the application site.

The nearest Natura 2000 sites, South Dublin Bay and River Tolka SPA (site ref.004024) and South Dublin Bay SAC (site ref.00210) are located c.9km to the east and the Glenasmole Valley SAC (site ref.001209) c.10km to the south.

## **2.0 PROPOSED DEVELOPMENT**

2.1 The proposed development comprises:

- the change of use from former health centre to mixed commercial use retail (coffee shop and florist) and community / cultural / funeral services (class 2),
- part demolition of 71-sq.m
- construction of a single-storey flat roofed rear infill extension of 269-sq.m
- internal and external alterations, including refurbishment of front façade, comprising a featured main entrance centred on the front elevation, own door entrance to coffee shop, cut stone and timber shop front to coffee shop and florist
- fascia level signage boards to front and rear elevations
- widening of 2no. existing vehicular entrances
- provision of 22no. on-site car parking spaces including 4no. disable accessible spaces

- hard and soft landscaping, SuDS drainage and all associated works.

## 2.2.0 Supporting documentation:

### 2.2.1 Planning Report by Hughes Planning and Development Consultants – The main points may be summarised as follows:

- Consistent with Z4 zoning.
- Site is a 'Key District Centre'
- Longer terms plan for redevelopment of overall site (preliminary drawings attached), which is ultimately what the Council, through the zoning objective, seeks to achieve.
- Of the two other buildings within the landholding, the former child psychology building is to be subject of a separate application and the childcare use of the northernmost building is to be reinstated.
- Proposed refurbishment design is consistent with policy SC28 of the CDP 'to promote quality in architecture and urban design...'.  
• Landscape improvements are proposed within the grounds.
- Provision of 22no. spaces is consistent with Zone 2 (from Map J) applicable in Key District Centres, having regard to the maximum car parking standards, would also reflect the preferred route for the proposed Lucan Luas Line and the use of the spaces to also services the proposed pharmacy, medical centre and childcare buildings within the wider site.
- Only 20no. spaces are required based on CDP standards, however additional disable persons parking spaces are proposed (4no.) in excess of the 5% CDP requirement, reflective of the nature of the uses.
- Internal pedestrian access through the site is proposed, but separate vehicular access to the childcare building via Drumfinn Avenue is anticipated, allowing a safer and more efficient operation in terms of drop-offs and collecting of children.
- Access is to be provided via existing entrances on Ballyfermot Road and Drumfinn Road, which are to be widened to 6m to allow more convenient movement for cars into and out of the site, with priority junction stop lines and signage (MPA drawing no.151006/PL/001 Rev.PL1).

### 2.2.2 Technical Note: Engineering Technical Note, by Martin Peters Associates, Consulting Engineers – The main points may be summarised as follows:

- Existing deficiencies of vehicular entrances to be addressed through widening, road markings and signage.
- No issue with foul sewerage system or mains water supply.
- Overview of proposed storm water drainage based on direct infiltration to ground via permeable paving and rainwater harvesting (including calculations for rainwater harvesting system) is provided.

### 3.0 RELEVANT PLANNING HISTORY.

On site (encompassing current site and wider landholding to west)

**PL29S.246503 / Reg.Ref.2223/16:** Current third party **APPEAL AGAINST DECISION** of Dublin City Council to grant permission (06/04/16) for (i) Change of use of an existing building (former child psychology unit) to medical centre (154-sq.m) with 3 no. consulting rooms and pharmacy (69-sq.m); (ii) Internal and external alterations to the building including refurbishment of the front/ southern facade to provide two separate shop fronts with new windows, doors and stall risers; (iii) fascia level signage boards to front/ south elevation; (iv) provision of 7no. on-site car parking spaces with vehicular access to be provided from existing access points on Ballyfermot Road (entry only) and Drumfinn Road (alterations to vehicular entrances, internal circulation and car parking to be delivered in conjunction with development proposed under a concurrent planning application Reg.Ref.3676/15; (v) hard and soft landscaping SuDS drainage and all associated site works.

### 4.0 PLANNING AUTHORITY DECISION

On 18/11/15 the Council issued a request for **FURTHER INFORMATION** concerning traffic issues (item no.1), the nature and extent of uses proposed (item no.2) and the design issues and possible amendment of same to retain the maximum degree of the existing front elevation (item no.3).

On 22/03/16 the Council issued a decision to **GRANT** permission subject to 11no. conditions. Non-standard conditions:

Condition no.3 restricted the use of the facility to use for 'community / cultural / funeral services under Class 2 of the Regulations and excluded its use as (a) place of worship or for use as place of religious instruction and (b) for the social or recreation activities of a religious body.

Condition no.4 prohibited the use of those areas indicated for use as community / cultural / funeral services purposes for use as a retail unit / shop / café / restaurant without a prior grant of permission.

Condition nos.6 required, *inter alia*, the submission of a Traffic Management Plan for agreement stating how parking spaces will be continually managed to ensure rat-running and long term commuter car parking do not occur; all servicing [of commercial units] to be from within the site, not the public road; and the provision of a 1.8m wide footpath along the eastern site boundary.

#### 4.1 Planning and technical reports

**Planning Officer**– The report of 16/11/15 is generally consistent with the decision of the Planning Authority to seek further information on three main issues. The Planning Officer also raised concern about the detail and accuracy of the public notices regarding the proposed change of use (specifically the failure to refer to the existing use and the reference to ‘coffee shop’ as ‘retail’).

The report of 22/03/16 is consistent with the decision of the Planning Authority to **GRANT** permission and the conditions attaching thereto. No concern was raised regarding the response to item no.1 (traffic issues); it was considered that the applicant failed to address inconsistencies in the public notices (item no.2); and that the revised design addressed the concerns of the Planning Authority regarding architectural issues (item no.3).

**Drainage Division** – The report of 28/10/15) raises no objection subject to standard conditions (attached as condition no.5 to the permission).

**Roads & Traffic Division** – The report of 02/11/15 raised concern about provision of excessive parking (22no. proposed, 6no. required by City Development Plan standards), autotrack details for hearses and for vehicles servicing the site, the use of the site entrance to Ballyfermot Road in proximity to the existing signalised junction (traffic report required), rat-running through the site, provision of a 1.8m wide pedestrian entrance through the site, and provision of cycle parking stands. Further information was sought on 6 points which were included in the further information request.

The report of 11/02/16 consider the applicant’s response (to item no.1(a)) concerning the level of proposed parking, the number of spaces proposed (40no. spaces) and the autotrack details (and 3no. parking spaces) for hearses to be acceptable. It considered the response regarding site services (item no.1(b)), which included autotrack details for a small service van, to be acceptable. It considered the response concerning the use of the Ballyfermot Road entrance (item no.1(c)) to be generally acceptable – the said access is proposed as entrance only; the details included a comparison of trip generation of the previous and proposed uses using the TRICS database, although the Division would have preferred trip generation calculations to have been based on the number of car parking spaces or consulting rooms but accepted that this information was not available. The proposed physical barrier to address concerns regarding rat-running (item no.1(d)) was acceptable, but the pedestrian footpath too narrow – a decrease in road circulation width to accommodate increase to same was considered

appropriate. The proposal to provide external congregation areas (up to 40no. person attendance estimated) (item no.1(e)) and 8no. cycle spaces (item no.1(f)) were considered acceptable.

No objections subject to five conditions, including three non-standard conditions. The non-standard conditions related to agreement of a traffic management plan, provision of 1.8m wide footpath and servicing of the site internally.

**EHO** – The report of 29/10/16 indicated no objection subject to conditions.

#### **4.2 Observations**

Three observations were received, from i) Larry Massey Funeral Directors, Terenure, c/o Delahunty & Harley Architects and Designers (23/10/15); Joe Forte of Ger's Deli, Ballyfermot (27/10/15); and Jackie Moran of Jackie's Florist Ltd, Ballyfermot (27/10/15). The main grounds of objection are repeated in the grounds of appeal, but the following additional points are also noted.

- Impact on existing deli business on Ballyfermot Road upper (employing six people), which already competes with 10no. existing deli shops in this area.
- Impact on existing florist business operating at 347 Ballyfarnon Road for over 30 years (employing ten staff) and other established businesses in the area, which is an area under pressure.

#### **5.0 GROUNDS OF APPEAL**

Larry Massey Funeral Directors, Terenure, c/o Delahunty & Harley Architects and Designers (15/04/16) - The grounds of appeal may be summarised as follows:

##### **Report of Planning Officer**

- Inadequate report which does not give sufficient weight to objections, including the negative impact of existing retail uses in Ballyfermot, density, lack of urbanism and traffic impact.

##### **Technical / procedural**

- Not complete or valid as address / description does not include the name of all roads abutting the site, including widening of entrances.
- Substandard information.
- No reference to Class 7 use – it is proposed to hold humanist services.

- Renewable technologies and green infrastructure not referred to.

### **Zoning**

- Funeral home use is open for consideration in zone Z4 (and Z6, 10, 13, 14 and 15) but permissible in zone Z5. The intention is to situate funeral homes in commercial areas away from residential districts.
- There is no shortage of areas where funeral homes are permissible and where they don't have undesirable impacts on residential areas.
- 'Open for consideration' – a use which may only be permitted where the PA is satisfied the proposal is compatible with the overall policies and objectives for the zone, would not have undesirable effects on permitted uses and would be consistent with the proper planning and sustainable development of the area.
- The development proposal would result in the postponement of an appropriate mixed use development for at least a generation.
- Provision of 22no. parking spaces is excessive.
- Implies (rather than states) the proposed development is inappropriate in terms of density, range of uses and coherent urban structure and results in underutilisation of the site and will set undesirable precedent.
- Policies SC9-SC12 are more relevant than SC28.
- Funeral home use is an occasional use, is a necessary but not lively facility and is not mentioned in proposed future use mix.

### **Traffic**

- Ballyfermot Road has a cycle lane, a series of traffic control measures and traffic is complicated by the significant turning movements generator including the Garda Station, housing and junction with Drumfinn Road.
- Will result in an increase in traffic movements to/from the site and its surrounding residential area.
- Connecting the two roads may lead to rat-running – this is not considered in documents submitted.
- Unlike the proposed development, most funeral homes are located adjacent churches. Funeral processions will lead to inconvenience to residents and add to rush hour traffic.
- The removal from funeral home to church usually takes place between 4.30pm and 6.30pm, with up to 80-120 persons attending.
- Significant traffic and blocking of sightlines (implies uncontrolled on-street parking) resulting in traffic hazard.
- Changing nature of funerals in Ireland, with large assemblies at funeral homes, different traffic patterns and longer services or gatherings at same



(quotes from <http://www.on-religious-funerals.com/> which provides an overview of changing nature of services).

- A sizable funeral home with assembly facilities will need different traffic management.

### **Aspects specific to funeral homes**

- Carrying out of embalming on site, a semi-industrial process with significant technical requirements and potential healthcare / environmental hazards.
- Embalming needs specialised training and facilities. The room is not big enough to accommodate embalming and there are no details on hazardous / sensitive /secure waste facility proposals.
- National policy encourages funeral homes in main streets, shopping centres and commercial areas away from houses with the aim to have some separation distance between housing and funeral paraphernalia.

### **Conclusion**

- The development plan, Chapter 9 section 9.4.7 '*Vacant Land and Buildings – Interim Solutions*' refers to interim solutions which are of temporary nature that would not prevent future development and which are economically viable.
- There is an existing café within the Ballyfermot Community Civic Centre.
- A funeral home will not satisfy the needs of the development plan.
- Quotes from section 17.1 Design, Layout, Mix of Uses and Sustainable Design – permission should be refused.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority response**

None received.

### **6.2 First Party response**

Lemford Ltd, C/o Hughes planning and Development Consultants (17/05/16) -  
The main points of the response submitted by may be summarised as follows:

#### **Report of Planning Officer**

- Observations were fully considered by the Planning Authority.
- The further information response was formulated by the applicant following consultation with the Planning Authority.

#### **Technical / procedural**

- The application was accepted as valid by the Planning Authority and the notices were clear enough to alert third parties.
- The applicant has no difficulty with the publication of further public notices if deemed necessary by the Board.
- The notices clearly made reference to the widening of 2no. existing vehicular entrances.
- The revised notices at further information stage clearly stated the uses and it is clear from the RFI report that the applicant is seeking both Class 2 and Class 7 use.

### **Zoning**

- The Planning Authority considered the proposed development reasonable and acceptable.
- The site and surrounding area is in urgent need of regeneration and the proposal results in the immediate improvement of the site and creation of employment in an area suffering from deprivation and high levels of unemployment.
- The site is entering a state of dereliction and dilapidation and is at risk of becoming a target for anti-social behaviour.
- The proposed mixed use redevelopment and active use of the buildings on site in association with reg.ref.2223/16 to serve the needs of the community in place of a dilapidated structure is consistent with the proper planning and sustainable development of the area and the provisions of the Dublin City Development Plan 2011-2017 and will contribute to the achievement of the vision of the Council for the area.
- The proposal provides for the rejuvenation of the site in the short to medium term in advance of the longer term provision of a large scaled mixed-used development.
- The intensity of the proposed development has been accepted by the Planning Authority as in accordance with the development plan and zoning objective for the site.
- Front elevation complies with policy SC28 of the development plan.

### **Traffic**

- A full and comprehensive Technical Note by Martin Peters Associates (MPA), Consulting Engineers, was produced as a traffic and transport assessment and submitted as further information following extensive consultation with the RTPD of Dublin City Council.
- A physical barrier is proposed to be provide at the entrance on Drumfinn Road to prevent rat-running at AM and PM peak. There is no exit to Ballyfermot Road.

- The MPA report concluded the proposal would have not significant effects on the local road network and in particular on the signalised junction between Drumfinn Road and Ballyfermot Road.
- MPA submitted that the increased PM trip peaks will not result in increased queuing on Ballyfermot Road or Drumfinn Road and does not represent a material impact on the local road network.
- RTPD had no objection subject to conditions and the applicant will comply with same.
- The applicant will submit a Traffic Management Plan as required prior to the occupation of the development.
- Long term commuter parking will not occur as there will be parking and visitor management procedures in place for any prohibited parking not related to the proposed development.
- The inclusion of 22no. parking spaces along with adequate public transport corridors in the vicinity (bus nos.18, 40, 76, 76a, 79 and 79a) indicates there will be no major effect on traffic in the area and the site will benefit from the proposed Luas Line extension to Lucan via a Ballyfermot Station as proposed under the Dublin Transport Strategy 2016-2035.

#### **Aspects specific to funeral homes**

- The majority of embalming procedures will take place at Stafford Funeral Homes' primary facility currently under construction on Greencastle Road, Coolock, D17 (reg.ref.4194/15) granted 06/02/17.
- Embalming will be limited, if required, and conducted within the development at a location distant from adjacent residential dwellings and under the control of trained specialists.
- The EHO had no objections.

#### **Conclusion of 3<sup>rd</sup> party**

- It is the applicant's intention to make use of a vacant building, falling into dereliction, with appropriate use, with longer term desire to rejuvenate the area in line with the Z4 objective for wholesale redevelopment to blend with the Ballyfermot Community Civic Centre once market conditions can support it.
- The Retail Planning Guidelines 2010 state *'it is not the purpose of the planning system to inhibit competition, preserving existing commercial interest of prevent innovation.'*

#### **6.4 Observations on grounds of appeal**

None received to date

## **7.0 POLICY CONTEXT**

### **7.1 PLANS**

#### **Dublin City Development Plan 2011-2017**

Land use zoning Z4: To provide for and improve mixed services facilities.  
KDC 5 – Ballyfermot is identified as a Key District Centre

Section 3.2.3 Settlement Strategy -

Section 3.2.7.1 Area-Specific Plans

Chapter 4 Shaping the City – section 4.4.2 Inner Suburbs and Outer City as Part of the Metropolitan Area; Section 4.4.2.1 Approach to the Inner Suburbs and Outer City: 1 Key District Centres (KDCs). Policies SC9-SC12.

Section 5.1.4.1 Integrated Land-use and Transportation

Section 17.40 Car Parking Standards

Table 17.1 Car Parking Standards for Various Land-uses.

### **7.2 OTHER REFERENCE DOCUMENTS**

## **8.0 ASSESSMENT**

I consider the main issues arising under the appeal can be addressed under the following headings:

1. Technical and procedural issues
2. Policy, proposed uses
3. Traffic and accessibility issues
4. Design, form and visual impact
5. Retail impact
6. Other issues
7. Appropriate Assessment

#### **8.1.0 Technical and procedural issues:**

8.1.1 The Planning Officer was concerned that the public notices referred to the proposed funeral home use as Class 2 use. The Planning Officer considered the use to fall within Class 7 use. This issue was raised in the further information request (2(a)), with the Planning Authority alerting the applicant that the development description does not need to include the use class but that where use class is referred to it must be accurate. This is reasonable as otherwise the public notices may be considered misleading.

8.1.2 The Authority did not actually request the public notices to be amended, but rather implied re-advertisement may be necessary. The applicant clarified the points under item no.2 a-c, indicating that the proposed facility will comprise a chapel and associated facilities for funeral services, civil services and other cultural gatherings including humanist ceremonies but did not amend the notice. Subsequently the applicant re-advertised the development proposal for the submission of further information at the direction of the Planning Authority but without amending or omitting references to use class. The Planning Authority attached condition no.3 prohibiting Class 7 use and the applicant has not appealed same. In response to the appeal, the applicant submits that it is clear that the applicant was applying for Class 2 and Class 7 use and that they were willing to re-advertise with amended notices if so required by the Board.

8.1.3 The relevant use classes, as defined under Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended are stated below.

<p><b>CLASS 2</b> Use for the provision of—</p> <ul style="list-style-type: none"> <li>(a) financial services,</li> <li>(b) professional services (other than health or medical services),</li> <li>(c) any other services (including use as a betting office),</li> </ul> <p>where the services are provided principally to visiting members of the public</p>	<p><b>CLASS 7</b> Use—</p> <ul style="list-style-type: none"> <li>(a) for public worship or religious instruction,</li> <li>(b) for the social or recreational activities of a religious body,</li> <li>(c) as a monastery or convent.</li> </ul>
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8.1.4 I am satisfied that the proposed funeral home use as described by the applicant falls within the scope of Class 2, not Class 7, and that there is no need to re-advertise the proposed development. Should the Board disagree it may consider whether revised notices are required. Should the Board decide to grant permission, condition no.3 (or a variation of same) attaching to the Planning Authority's decision, which restricted the use to effectively omit Class 7 use, should be attached in the interest of clarity. I see no particular reason to otherwise limit any change of use in accordance with any provisions under the Planning and Development Act, 2000, as amended, or the associated Regulations.

### 8.2.0 Policy, proposed uses and form of development

8.2.1 The site is zoned Z4 District Centres (incorporating key district centres) where it is the objective *'to provide for and improve mixed services facilities'* and is identified as a Key District Centre (5).

8.2.2 The uses proposed are stated as comprising mixed commercial use retail (specified as coffee shop and florist) and community / cultural / funeral services (class 2). Neither coffee shop nor café is stated as a permissible use, however the use is analogous to restaurant which is a permissible use. Florist is a retail use and is permissible (shop neighbourhood and shop district are permissible uses). Community facility, cultural / recreational building and uses are also permissible. Funeral home use is open for consideration.

8.2.3 I do not agree with the third party appellant that it is the intention of the land use zoning to situate funeral homes in commercial areas away from residential districts. Having regard to section 15.6 Open for Consideration Uses, it is evident that the Planning Authority was *'satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area'* (p.191, CDP).

8.2.4 I note the policies of the development plan pertaining to Key District Centres and other urban centres in the hierarchy (SC9-SC12) under section 4.4.2.1 and the Settlement Strategy under section 3.2.3 of the development plan. Whilst the development of the Key District Centres as strong urban hubs and sustainable anchors of the suburbs is clearly envisaged under the development plan, I do not consider the change of use of and relatively minor extension of an existing building within a KDC, as is proposed in the application subject of the appeal, to be materially contrary to an objective of the development plan. Were the site proposed to be redeveloped in its entirety, then planning considerations may be different.

### 8.3.0 Traffic

8.3.1 **Traffic generation** – In the initial submission (22/09/15) the applicant proposed the widening of the two existing entrances, one each to Ballyfermot Road and to Drumfinn Road, to accommodate access and egress movements. The Council's Roads Traffic Planning Division indicated that, notwithstanding the extant site entrance to Ballyfermot Road, access to that road is undesirable for the long term redevelopment of the site due to the proximity the entrance to the signalised junction and the potential for queueing delays to arise. Access via Drumfinn Road and Drumfinn Avenue are the

RTPD's preferred location for vehicular access. This issue was included as item no.1(c) of the Council's further information request. The Division also raised concerns about the potential for rat-running through the site between the two aforementioned roads, which was included as item no.1(d) of the further information request.

- 8.3.2 In response the applicant commissioned MPA Consulting Engineers to carry out a Traffic Assessment having regard to the existing and proposed uses on the site. The TA concluded that the proposal will not have any significant impact on the local road network and, in particular, on the existing signalised junction at Ballyfermot Road and Drumfinn Road, with no increase in queuing resulting from the generation of an additional 6no. two-way trips at PM peak by the proposed development.
- 8.3.3 MPA Consulting Engineers estimated the traffic generated by the previous use as a Health Centre using the TRICS database. The RTPD indicated that it would prefer that traffic generation be estimated based on the existing number of consulting rooms or car parking spaces, but it accepted that this information was not available. I would suggest that this information could be quite easily deduced by MPA by a review of the floor and contacting the HSE<sup>1</sup>, a review of the site plans and a cursory site visit. Indeed, MPA does provide an estimate of existing car parking at 37no. However, it would appear unlikely that the existing car parking layout could accommodate the parking of 37 cars given the lack of demarcation of spaces and it is not clear that 37no. spaces of the required dimension could be accommodated inclusive of the requirements for circulation widths, etc. However, I consider use of the TRICS database to be reasonable in this instance.
- 8.3.4 I am satisfied that the applicant's use of TRICS, in terms of selection of appropriate use type and location, is generally consistent with the '*TRICS Good Practice Guide 2012*' (JMP). It is not clear how the applicant arrived at the daily trip rates (in, out and two-way) having regard to the trip rate table contained in the final page of Appendix A to the MPA report. The applicant has applied a total daily trip rate of 51.038 (295 trips) rather than 49.091 (286 trips), an arrival rate of 25.606 (148 trips) instead of 24.681 (142 trips) and a departure rate of 25.433 (147 trips) not 24.410 (141 trips).
- 8.3.5 The number of daily trips will be dependent on the operational hours. The TRICS data is based on 06:00-20:00, whereas the operational hours of the health centre cannot be expected to have extended outside of 09.00-18.00 given the nature and scale of the facility, although arrivals and departures will

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<sup>1</sup> It is evident that the site was in use at least as recent as June 2012, based on Google Earth which indicates car parking on site.

have occurred from 08.00 and possibly after 18.00, reducing the daily trip rate to 48.286. Daily trips for the health centre would therefore amount to 279no. The individual hourly trip rates, including AM and PM rates would still be applicable.

- 8.3.6 The departure trip rates for the existing facility contained in table 2.2 of the report are all rounded up, which is not unreasonable. There is an error in the calculations, with departure trips for 08.00-09.00 amounting to 7 trips (6.61 unrounded), not 8 trips, based on a trip rate of 1.143 per 100-sq.m GFA. This is a relatively minor error, however it should be noted that this error and the rounding of figures distorts the 2-way trip totals, with AM two-way traffic to 20 than 22 and PM two-way traffic closer to 18 than 19.
- 8.3.7 The assessment provides no estimate of modal split for trips. Given the site location within a built up suburban residential area, with extensive mixed uses adjacent (Civic Community Centre) and in the near vicinity (Ballyfermot Shopping Centre), on a major urban arterial route with frequent bus services, the previous facility (which is a health centre, not an accident and emergency department) can be expected to have had a reasonably favourable modal split. This is a significant failing of the Traffic Assessment.
- 8.3.8 MPA produced predicted trip rates for the proposed development based on first principles. Whilst this is reasonable, it does not allow for a like for like comparison with the existing use as it is not based on TRICS data. A comparative trip generation exercise using the TRICS database would lend support to the applicant's figures which otherwise can only be accepted at face value. But I consider the AM peak (15no.) and PM peak (25no.) two-way figures and arrivals and departures figures to appear realistic. Based on the MPA figures, the proposed development will generate c.5no. fewer trips in the AM peak and an additional 7no. additional trips in the PM peak. Again, the applicant fails to provide a predicted modal split for the proposed uses.
- 8.3.9 In terms of overall daily trips, MPA predicts 244no. daily trips for the proposed development compared to 295no. for the previous use, a reduction of 51no., however for reasons outlined above, an existing daily trip generation of 279no. trips is applicable, therefore the reduction in daily trips would amount to 35no.
- 8.3.10 The proposed facility is predicted to generate significant levels of trips for funeral services and civil services. Funeral services are indicated as typically taking place during late morning to midday, three to four times per week; with civil services typically taking place in late mornings or evenings (no frequency stated). It is submitted that these services would in exceptional circumstances generate 30-40 cars, associated with occasional large funerals



or services. This would suggest that the proposed funeral and civil services facility will have significant traffic generating impact on the local network during times of peak use. In principle this is not unacceptable within a Key District Centre where alternative sustainable modes are feasible, rather I would advise that the traffic impact should be limited by condition to outside extended AM (07.30-09.30 HOURS) and PM (16.30-18.30 HOURS) peak traffic times by prohibiting the carrying out of funeral or civil services during those hours by way of condition.

- 8.3.11 **Access and rat-running** – As noted above, the RTPD expressed its preference for site access / egress to be via Drumfinn Road and Drumfinn Avenue rather than Ballyfermot Road, with particular reference to the long term redevelopment of the site, and having regard to the signalised junction on Ballyfermot Road. Whilst I understand the concern of the RTPD, the locating of vehicular accesses onto local roads in preference to link (or possibly arterial) routes, such as Ballyfermot Road, is not promoted by the Design Manual for Urban Roads and Streets.
- 8.3.12 Wherever the proposed entrances are located, the design of any crossover of the public footpath and cycle lanes needs to clearly demonstrate pedestrian and cyclist priority (section 4.3 Pedestrian and Cyclist Environment, DMURS). The details submitted by the applicant in this regard are vague in the case of Drumfinn Road and non-existent for the Ballyfermot Road access. This can be address by condition, but any such condition should make specific reference to the requirements to comply with DMURS.
- 8.3.13 Drawing no.151006/PL/001 (11/02/16) indicates the provision of a controlled access barrier at the Drumfinn Road entrance which is proposed to be lowered during AM and PM traffic peak times to prevent rat-running through the site. I would advise that it would be more efficient to place the barrier on the circulation route running along the east of the site given that the barrier is to prevent through-traffic not site access. The proposed entrance barrier will prevent legitimate site access and result in cars waiting on the public footpath, unnecessarily obstructing pedestrian and / or other traffic. This issue can be addressed by condition.
- 8.3.14 The proposed entrance-only from Ballyfermot Road and the implementation barrier control to prevent rat-running at peak times will have implications for the operating of the proposed café, retail and other ancillary uses, in addition to the pharmacy and medical centre proposed under reg.ref.2223/16 (PL29S.246503) within the wider site. Traffic accessing those uses will not be able to exit the site onto Ballyfermot Road and or onto Drumfinn Road. I

doubt the feasibility of the intended traffic arrangements and I expect that traffic will egress onto Ballyfermot Road regardless of the intended restrictions..

8.3.15 For funeral or civil services traffic, where traffic generation will occur over discrete and predictable periods, it may not present too much of a difficulty as the operation of the barrier can be planned ahead of time. It would, however pose a significant problem for traffic departing from the medical centre or pharmacy, or from the café and retail uses within the wider development as such customer arrivals and departures will be occur on a random basis. Based on the information on file, I do not consider the implementation of a control barrier system to be practical, feasible or practically enforceable based on the proposed access and egress arrangements. In the absence of a feasible and effective system, traffic will be likely to exit onto Ballyfermot Road via the 'access only' entrance and will constitute a traffic hazard and an obstruction to road users.

8.3.16 Feasible alternative options include

- i) Permitting entrances to both Ballyfermot Road and Drumfinn Road to accommodate access and egress movements.
- ii) Prohibiting vehicular access to / from Ballyfermot Road by removing / blocking up the existing vehicular entrance thereto and providing only for pedestrian and vehicular access therefrom.

8.3.17 Both options may present some problems for the traffic network. The second option is likely to encourage uncontrolled parking (as currently occurs) and site servicing taking place within the paved pedestrian area located outside the site boundary along Ballyfermot Road. There will also be implications for the servicing of the units within the site with deliveries - the autotrack details being based on access from Ballyfermot Road and egress to Drumfinn Road. It is evident that the RTPD has been particularly concerned for the potential for service deliveries to take place on the public road. However, the issue of enforcing parking and delivery restrictions, or addressing otherwise uncontrolled parking outside of the site are a matter for enforcement and / or the introduction of suitable controls by the Local Authority and An Garda Síochána and it is not feasible to resolve these issues in this appeal and by a decision of the Board.

8.3.18 The implications of permitting of access and egress to Ballyfermot Road are uncertain, however I note that the RTPD report raised concern about the impact on the operation of the Ballyfermot Road and Drumfinn Road signalised junction only concerning future long term redevelopment of the site,

not with regard to the two concurrent proposals. Whilst it preference was for site access and egress to be via Drumfinn Road and Drumfinn Avenue rather than Ballyfermot Road, it did not advise that access and egress to /from Ballyfermot Road was unacceptable from a traffic safety or traffic operational perspective.

8.3.19 Given the moderate scale of the two proposed developments, I consider it unlikely that the traffic to/from the Ballyfermot Road entrance would have a detrimental impact on the junction, subject to conditions restricting parking, controlling through-traffic and the hours of operation of the funeral services and civil services as recommended in the concurrent appeal.

8.3.20 Accordingly, I would advise that vehicular entrance to Ballyfermot Road be permitted to accommodate access and egress traffic and that the design of the entrance and crossover of the pedestrian pavement accord with the requirements of DMURS, the details of which should be agreed with the planning authority.

8.3.21 **Parking** – The applicant initially proposed 22no. off-street car parking spaces, although drawing no.151006/PL/001 would suggest that 5no. additional cars could be accommodated to the west of proposed space no.13. In response to the further information request (item no.1(a)), the proposed parking layout was amended to provide 41no. parking spaces (inclusive of 1no. disabled accessible space) and three hearse parking spaces. The MPA report estimates that the site can currently accommodate parking for 37no. cars but no existing site plan or parking layout is attached to file and I consider it unlikely that this many cars can currently be safely accommodated. I estimate that approximately 30no. cars can be accommodated on site, having regard to the dimensions of the site, the need to accommodate circulation and the absence of space demarcation.

8.3.22 The MPA report calculates that 9no. parking spaces are required for this location (Zone 2 parking standards apply to Key District Centres) and notes that the parking standards under the development plan are maximum standards that should apply except in exceptional circumstances. The Board will be aware that the implementation of maximum parking standards is in accordance with Government transport policy under '*Smarter Travel*' (2009). Having regard to the fact that the standards are maximum standards, I agree that no more than 1no. parking space each is required for the proposed café and florist (retail other) uses and that 4no. spaces are required for funeral home use. The applicant submits that an additional 3no. spaces are required for community / cultural hub based on a gross floor area of 704-sq.m, but I

consider this to constitute a double-counting of floor space as the funeral home and community / cultural use occupy the same area. The total parking demand is for the proposed development therefore totals 6no. spaces.

8.3.23 I note that there is a concurrent application (reg.ref.2223/16, also under appeal PL29S.246503) on the adjacent land to the west but fully encompassing the application site subject of this current appeal also. Drawing no.15146-PL-02 attaching to PL29S.246503 indicates that 7no. of the proposed parking space are proposed to accommodate the pharmacy (69-sq.m) and medical centre use (3no. consulting rooms) in that proposed development. It is reasonable to take this parking demand into account. The pharmacy would have a maximum demand of 1no. space and the medical centre use (a clinic) 6no. spaces, a total demand of 7no. spaces. The total parking demand across the two development sites amounts to 13no. spaces. The Board will be aware that where mixed use development is proposed, particularly within centres where land will be at a premium, it is common practice to consider the opportunity for dual use of parking spaces to limit the total requirement for same. Dual use of spaces was not an explicit consideration in the RTPD reports.

8.3.24 The applicant is correct that the development plan makes allowance for provision of car parking in excess of the maximum standards in exceptional circumstances. The MPA report submits that in exceptional circumstances the funeral home use will generate parking demand for up to 40no. car parking spaces and that this therefore warrants parking in excess of the maximum standards. However, the section 17.40 of the development plan makes clear what may be considered 'exceptional circumstances':

*e.g. boundary areas, or where necessary for the sustainable development of a regeneration area (see section 16.3). It is the intention of the planning authority that such relaxations in car parking standards shall only apply until such time as a similar accessibility based parking policy and parking standards as applicable to the Dublin City Council area are adopted by the adjoining planning authorities in the Dublin metropolitan area*

8.3.25 I do not accept that the proposed development constitutes 'exceptional circumstances'. As submitted by the applicant, the site is well located in relation to existing bus services and is also accessible by pedestrians and cyclists from the suburban residential catchment. In addition, the surrounding area provides plentiful opportunity for on-street parking, and there is also parking available at the Ballyfermot Community Civic Centre (although it cannot be assumed that this will be available for external use) and at the

Ballyfermot Shopping Centre to the east, to cater for exceptional funerals or civil services. The proposed parking is at more than 3 times the maximum required parking under development plan standards for the two adjacent development proposals. The provision of parking well in excess of development plan standards will encourage travel to the site and to this Key District Centre by car rather than by sustainable modes of transport and would be contrary to Government transport policy under '*Smarter Travel*' (2009).

8.3.26 However, I am cognisant of the longstanding use of the site and its associated existing car parking and the desirability of the active reuse of the site. I would advise that parking layout be amended to omit proposed parking spaces nos.10-28, with the said area be implemented and retained as soft landscaped and planted areas of open space. Parking space no.8 should be altered to a disabled accessible space, with spaces nos.4-7 relocated eastwards to accommodate the wider dimension of same. This would result in the provision of 22no. off-street car parking space plus 3no. hearse parking spaces.

8.3.27 **Other accessibility issues** – The RTPD requires the pedestrian footpath along the east of the building to be increased in width to 1.8m with a commensurate reduction in width of the vehicular circulation space. Although the internal circulation route does not constitute a public road, it is reasonable to follow DMURS principles and standards in the context. In my professional opinion it would be preferable to provide for a shared surface within the site, at least along the circulation route east of the building, taking account of the recommendations of DMURS for areas of high place value (centres) and low movement function (it is below local road function). Such an approach may also discourage rat-running. DMURS advises that total carriageway width for shared surfaces should not exceed 4.8m. This may be addressed by condition, with the details subject to the agreement of the Planning Authority.

8.3.28 **Entrances & pedestrian accessibility** – The proposed entrance to Ballyfermot Road was reduced to 4.5m in the further information submission (drawing no.151006/PL/01). The entrance to Drumfinn Road is stated as 6m. No elevational details of the entrances are provided. Due to the scale of site plan (1:250) and the dot-dash line used to denote the site boundaries, the detail of the entrances and boundaries are obscured. It would appear that a 1.8m wide pedestrian gate is proposed to Ballyfermot Road and a 1.5m entrance gate is proposed to Drumfinn Road, adjacent the proposed vehicular accesses. Within the context of the scheme and the site as a Key District Centre and the mix of uses proposed, I consider the pedestrian access points

and pedestrian permeability through the site to be of a poor standard. I would advise that the applicant be required by condition to provide for revise pedestrian access proposals and pedestrian permeability across the site, including from Drumfinn Avenue, the details of which should be agreed with the Planning Authority.

#### 8.4.0 Design, form and visual impact

8.4.1 I consider the proposed alterations and extension to the existing building, as amended by further information received 11/02/16, to be acceptable.

#### 8.5.0 Retail Impact

8.5.1 Two letters of objection were submitted to the application by operators of local businesses (a florist and a delicatessen). In both cases the primary concern was the impact on the viability of the existing business from additional competition. As pointed out by the First Party, the Retail Planning Guidelines (2012), which are statutory guidelines under section 28 of the Act, address the issue of impact on completion under section 2.5.3 Competitiveness in the Retail Sector which states:

*The planning system should not be used to inhibit competition, preserve existing commercial interests or prevent innovation. In interpreting and implementing these Guidelines, planning authorities and An Bord Pleanála should avoid taking actions which would adversely affect competition in the retail market. In particular, when the issue of trade diversion is being considered in the assessment of a proposed retail development, planning authorities and An Bord Pleanála should assess the likelihood of any adverse impacts on the vitality and viability of the city or town centre as a whole, and not on existing traders.*

8.5.2 I would advise that the Board is not entitled to consider the impact of increased competition on the two aforementioned traders. I would anticipate that the impact on the district centre as a whole would be positive through the introduction of novel land uses to the centre and the bringing back into use of vacant buildings.

#### 8.6.0 Other issues

8.6.1 The Third Party Appellant raised concern about the carrying out of embalming on site. As indicated by the First Party, the Council's EHO had no objection to the proposed development.

### 8.7.0 Appropriate Assessment

8.7.1 Having regard to the scale of the proposed development, comprising principally the change of use of a structure, with relatively minor alterations and extension, and the separation distance between the site and the nearest Natura 2000 sites (South Dublin Bay and River Tolka SPA (site ref.004024) and South Dublin Bay SAC (site ref.00210) are located c.9km to the east and the Glenasmole Valley SAC (site ref.001209) c.10km to the south) no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.0 CONCLUSIONS AND RECOMMENDATION

It is considered that the proposed development should be **GRANTED** for the reasons and considerations hereunder.

### REASONS AND CONSIDERATIONS

Having regard to the designated status of the Ballyfermot District Centre as a Key District Centre (KCD 5) and the land use zoning of the site District Centre Z4 '*To provide for and improve mixed services facilities*' the uses proposed are permitted in principle or are uses that open for consideration that are deemed compatible with the overall policies and objectives for the zone, would not have undesirable effects on permitted uses, it is considered that the proposed development would be in accordance with the provisions of the Dublin City Development Plan 2011-2017 and be consistent with the proper planning and sustainable development of the area subject to compliance with the conditions set out below.

### CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 11<sup>th</sup> day of February 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall not be used for the purposes of use under Class 7, under Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.

**Reason:** In the interest of clarity.

3. No funeral services or civil services shall take place within the site between the 07.30-09.30 HOURS and between 16.30-18.30 HOURS.

**Reason:** In the interest of limiting the impact of the development on traffic flow at peak traffic times.

4. Prior to the commencement of development the developer shall submit, for the written agreement of the planning authority, revised drawings and details:
  - (a) Omitting proposed car parking spaces number 10 through to number 28 (as shown on drawing no.151006/PL/001 received 11/02/16) inclusive, and replacing those spaces in their entirety with soft landscaping and planting.
  - (b) Amending the car parking layout of spaces numbers 4 to 8 (as shown on drawing no.151006/PL/001 received 11/02/16) to provide for an increase in the dimensions of parking space number 8 to constitute a disabled car parking space (minimum dimension of 3.0m X 4.75m) and the relocation of parking spaces numbers 4-7 eastwards only so far as required to accommodate the increased width of space number 8.

**Reason:** To limit car parking provision in accordance with Government transport policy 'Smarter Travel' (2009) to encourage a more appropriate modal split in favour of sustainable transport modes, and having regard to with the provisions of the City Development Plan 2011-2017 regarding maximum car parking standards, in the interest of the proper planning and sustainable development of this key district centre.

5. Prior to the commencement of development, the developer shall submit, having regard to the detailed requirements of the '*Design Manual for Urban Roads and Streets*' (2013) for the written agreement of the planning authority, revised drawings and details:
  - (a) Amending the entrance to Ballyfermot Road to accommodate access and egress traffic movements.
  - (b) Providing for improved pedestrian access to the site from Ballyfermot Road, Drumfinn Road and Drumfinn Avenue.



- (c) Providing for improve pedestrian permeability and pedestrian priority within the site, including through the provision of a shared-surface route along the eastern side of the proposed development in lieu of the proposed separate vehicular carriageway and pedestrian pavement, the combined width of which shall not be greater than 4.8m.
- (d) Of the proposed crossover access of the pedestrian pavement and cycle lane between the proposed vehicular entrance and the vehicular carriageway on Ballyfermot Road and on Drumfinn Road (pedestrian pavement cross over only).

**Reason:** To provide suitable access and egress arrangements to the proposed development, to prevent the creation of a traffic hazard and to ensure a satisfactory standard of development and in the interest of road traffic safety.

- 6. (a) Prior to the commencement of development the developer shall submit revised drawings and details omitting the proposed controlled access barrier from the proposed widened entrance to Drumfinn Road and providing, instead, a suitable control access barrier at a suitable point along the proposed circulation route adjacent the east side of the development.
- (b) The control access barrier shall be maintained in place between 07.30-09.30 HOURS and between 16.30-18.30 HOURS Monday to Friday, excluding bank holidays, unless otherwise agreed in writing with the Planning Authority.

**Reason:** To prevent vehicular-through traffic within the site, bypassing the signal controlled junction between Ballyfermot Road and Drumfinn Road in the interest of pedestrian and road traffic safety.

- 7. The development shall be carried out in such a manner as to ensure the adjoining streets are kept clear of debris, soil and other material and, should the need arise for cleaning works to be carried out on the public road, the said cleaning works shall be carried out at the developer's expense.

**Reason:** In the interest of road safety and amenity.

- 8. Water supply and drainage arrangements, including the provision of separate foul and surface water systems up to a combined final connection discharging to the public combined sewer and the incorporation of Sustainable Drainage Systems in the management of stormwater, shall comply with the requirements of the planning authority for such works and services and shall be subject to the prior written agreement of the Planning Authority.

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

9. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

10. During construction and demolition phases the proposed development shall comply with British Standard 5228 “Noise Control on Construction and Open Sites Part 1. Code of practice for basic information and procedures on noise control.”

**Reason:** In order to ensure a satisfactory standard of development in the interest of residential amenity.

11. The developer shall pay to the planning authority a financial contribution of €15,763.50 (fifteen thousand, seven hundred and sixty-three euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**John Desmond**  
**Senior Planning Inspector**  
21/07/16