



An
Bord
Pleanála

Inspector's Report ABP-312046-21.

Development

Construction of a crematorium and all associated site works and landscaping including decommissioning of existing wastewater treatment system and provision of new wastewater treatment system, new vehicle parking and circulation, removal of the entrance gateposts, alterations to entrances at existing locations to create one entrance/exit with right turning lane off N72.

A Natura Impact Statement submitted.

Location

The former Duhallow Park Hotel site, Drumcummer Beg, Kanturk, Co. Cork.

Planning Authority

Cork County Council.

Planning Authority Reg. Ref.

21/4718.

Applicant(s)

Classic Lodges (Irl) Ltd.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal	First Party
Appellant(s)	Classic Lodges (Irl) Ltd
Observer(s)	John Murphy An Taisce Dromcummer Residents' Association Island Crematorium Ltd
Date of Site Inspection	26/01/2022.
Inspector	A. Considine.

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1.0 Site Location and Description

- 1.1. The subject site is located to the northern side of the national secondary road, the N72. The N71, at the point of the subject site, connects Mallow – approximately 15 km to the east, and Killarney – approximately 43 km to the west. The town of Kanturk lies approximately 4km to the north of the subject site and is connected off the N72 at the junction with the R579. To the south of this junction, which is located approximately 1 km to the west of the proposed development site, also on the R579, lies the key village of Banteer, approximately 2km to the south-west of the site. The Board will note that permission has recently been approved to upgrade this junction to provide a roundabout ABP-310659-21 refers. To the south of the N72, the river Blackwater flows within between approximately 20 to 60m of the nearest point of the subject site.
- 1.2. The site has a stated area of 2.7093ha and rises from the public road towards the rear of the site, and to the northern area of the site. There is an extensive roadside boundary, extending to approximately 400m onto the N72 and there are currently two access/egress points onto the national secondary road. The site is essentially rectangular shape with a narrow extension of the site towards the east along the public road. The existing roadside boundary comprises a mature hedge with trees with wide curved splayed walls with piers at the two entrance points to the site. The access at the north-eastern side of the site is larger than that at the southern end.
- 1.3. The central area of the site has been altered in the past with the creation of two levels, associated with the former use of the site as a hotel. Ramps are present which provided access to the upper level at both sides of the site and there are the remnants of steps which connects both levels. While the site has been cleared, the footprint of the former hotel and the associated car park on the upper level, together with the retaining wall, are still identifiable. The main body of the site has become overgrown and there are pockets of wooded areas also present, particularly towards the north-eastern area of the site.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for development consisting of the Construction of a crematorium and all associated site works and landscaping

including decommissioning of existing wastewater treatment system and provision of new wastewater treatment system, new vehicle parking and circulation, removal of the entrance gateposts, alterations to entrances at existing locations to create one entrance/exit with right turning lane off N72. A Natura Impact Statement will be submitted to the planning authority with the application, all at The Former Duhallow Park Hotel Site, Dromcummer Beg and Coolacheesker (townlands), Kanturk, Co. Cork.

2.2. The application included a number of supporting documents including as follows;

- Plans, particulars and completed planning application form,
- Planning Statement
- Design Statement
- Landscape Design Statement & Schedule
- AA Assessment Screening & Natura Impact Statement
- Literature Review on Potential Ecological Effects of Mercury and Dioxins/Furins on Otter and Other Wildlife
- Amphibian Survey & Pond Management Plan
- Mammal Fauna Study
- Construction Operation & Waste Environmental Management Plan
- Transportation Assessment Report
- Mobility Management Plan
- Air Quality & Noise Impact Assessment

2.3. Following a request for further information, the applicant submitted the following additional information:

- Updated Noise Impact Assessment
- Public Lighting Planning Report
- Report from NBR Consulting Engineers addressing the roads and traffic issues raised in the FI.

- 2.4. The proposed development seeks to construct a crematorium building, with a stated floor area of 581.84m² on the upper level of the existing site. The design of the building provides for an essentially rectangular shape with the gable facing towards the public road. The building will be accessed from the west via an entrance canopy projecting from the building towards the main car parking area, which proposes 55 car parking spaces and a bus parking space. The proposed crematorium will facilitate seating for a small congregation of 40 to 50 people.
- 2.5. The proposed layout of the site will see the removal of the two existing entrance / egress points along the site frontage and the provision of a single, centrally located existing entrance / egress to serve the proposed crematorium. The existing
- 2.6. The proposed building provides for a spiritual space, room of remembrance, refreshments area, a family room, WCs and administration offices. The layout of the building also provides for a reflective conversation space to the eastern side of the building. The cremator room is located to the western side of the building and the Board will note that the scale of the building has not been reduced since the previous refused development. The current application differs from the previous application by proposing to install just 1 gas fired cremator rather than the previously proposed 2 units. The size of the cremator room has not been changed.
- 2.7. The design of the building, which will rise to approximately 8.2m in height, includes the cladding of the building in a dark stained larch timber in a 3-dimensional build-up to create depth of shadow. The ground surface treatment will tone visually with the local stone. Overall, the flat roofed building proposes a pallet of muted materials, designed to blend in with the woodland landscape.
- 2.8. In terms of the wider site and landscaping, the site will be landscaped as a woodland garden, retaining most of the established mature trees. New planting will be introduced to a designed landscape plan on the enhanced native woodland theme and the existing artificial pond will be reconstructed, enlarged and designed to encourage biodiversity. A new waterfall feature is also planned to the east of the building to assist in reducing the perception of traffic noise. The development does not propose a memorial garden for the storage of remains and there will be no scattering of ashes.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the development for the following stated reason:

1. Official policy in relation to development involving access to national roads and development along such roads is set out in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012). The proposal, if approved, would create an adverse affect on the national road where the maximum permitted speed limit applies and would be at variance with the foregoing national policy in relation to control of frontage development on national roads. The proposed development would, therefore, be contrary to Section 28 Guidelines and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development located on a national road where the maximum speed limit applies would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history, prescribed bodies submissions, third-party submissions and the relevant Development Plan and LAP policies and objectives. The report also includes an Appropriate Assessment Screening Report. The report also notes that a pre-planning meeting was held with the applicant in November 2020.

- 3.2.2. The planning report notes the previous application for a similar development on the site, and that the Planning Statement submitted with the application which notes that the only amendments to the current proposal relate to the operation of a single

cremator within the facility, a bus parking space, a single site entrance and the proposed right hand turning lane and the surface water drainage channel along the N72 at a location in proximity to the site boundary.

3.2.3. The Planning Officers report considers the proposed development under the following headings:

- Proposals, Design, Siting
- Operations
- Principle of proposed development
- Design and Layout, Visual Assessment
- Roads and Traffic, Reports
- Environment
- Servicing, drainage
- Ecology Office Report, AA
- Flooding
- Public Lighting
- Submission
- EIA Requirement

The report concludes that further information is required with regard to issues relating to environment, roads and lighting.

3.2.4. The SEP accepted the Planning Officers recommendation.

3.2.5. Following the submission of the response to the further information request, the PO concluded that the proposed development, and having regard to the roads issues raised by the NRDO and TII, would be at variance with the national policy in relation to control of frontage development on national roads and the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.

3.2.6. Issues raised in relation to public lighting and ecology, together with the principle of the development, there is no objection.

3.2.7. The Planning Officer recommends that permission for the proposed crematorium be refused. The Board will note that the Senior Planner concurred with the recommendation of the Area Planner to refuse permission. This Planning Report formed the basis of the Planning Authority's decision to refuse permission.

3.2.8. Other Technical Reports

Public Lighting: Further information required in relation to a number of issues.

Following the submission of the response to the FI request, the Public Lighting report advised no objection subject to conditions.

Area Engineer: The report notes that the site proposes access to a national secondary route and advises that the applicant be referred to National Roads Office regarding the right turning lane on the N72.

The report notes the proposal to use a bored well and a WWTP to service the site, with the use of a heavy duty aco channel across the new central entrance to the site.

Conditions provided.

Following the submission of the response to the FI request, the AE report advised no objection subject to conditions.

Environment Report: The report advises that further information is required with regard to noise.

Following the submission of the response to the FI request, the Environment report advised no objection subject to conditions.

The Board will also note that CCC engaged AWN Consulting to complete a technical review of the Air Quality section of the submitted Environmental Report. This report is summarised as follows:

- The report notes that incorrect values for ambient annual mean PM₁₀ were used in the Air Quality report.
- The report states that Kanturk is located in EPA Air Quality Zone C however, it is in Zone D. No baseline ambient air quality data is reported with the exception of mercury.
- References are made to the EPA 2018 report rather than the 2020 report.

- There is no discussion of the proximity of nearby human or ecological receptors, with the nearest residential property located roughly 80 to the west of the site.
- In terms of the robustness of the modelling methodology, the AWN Consulting report notes the appropriateness of the use of the AERSCREEN model.
- It is submitted that the exit velocity and emissions temperature should be modelled at actual or worst-case of these values in order to ensure that conservative modelling is completed.
- No information has been provided on terrain, potential for building downwash, meteorological data used, nearby sensitive receptors or the location of the maximum concentrations within the body of the report.
- The report contains no assessment of potential traffic impacts or the criteria under which an impact assessment should be scoped out. Should large numbers of people attend ceremonies at the facility, there is the potential for impacts on local sensitive receptors.
- Issues raised with regard to the appropriateness of the discussion of results and the abatement plant.
- In terms of the impact of the development on the SAC, it is the opinion of AWN Consulting that given the available NO₂ annual mean concentrations in the appendix, and the SAC is outside the worst-case area of impact, an exceedance of the annual mean limit value for NO_x is not predicted to occur.

Following the submission of the response to the FI request, the AWN Consulting report noted the changes made by the applicants Air Quality report. The amendments to the figures also had regard to the reduction in the number of the crematorium units from 2 (previous application) to 1. The report

does note, however, that a number of issues raised in the initial technical note provided by AWN Consulting were not addressed in the FI response by the applicant.

National Roads Office: The report notes the history of the site including numerous planning applications for development at the site. the site is located within a stated speed limit of 100km/ph and it is noted that the developer seeks to construct a ghost island layout on the N72 to facilitate access to the proposed crematorium.

The proposed development is at variance with official policy in relation to the control of development on/affecting national roads.

The proposed development would intensify the use of the existing entrance in a 100km/ph stated speed limit, adversely affect both the level of service of the road and the general safety of the road.

It is recommended that permission be refused.

Following the submission of the response to the FI request, the NRO report maintained the recommendation to refuse permission.

Ecology Report: The report sets out the detail of the proposed development as well as the planning history of the site. It is considered that the only outstanding matters for consideration from a Habitats Directive perspective are:

- Whether adequate measures are included within the current proposal to deal with surface water impacts associated with the right-hand turn into the development from the N72;
and
- Whether emissions to air associated with the development have potential to have adverse effects on QIs of the Blackwater River SAC.

The County Councils Ecologist is satisfied with details submitted and believe that proposals will be effective in preventing adverse effects on the integrity of the Blackwater River SAC.

With regard to emissions, the AWN Consulting report is noted. The further information requests are noted, and it is requested that such the assessment results change as a result of the FI issues, an addendum to the NIS shall be submitted assessing any associated impacts on designated sites.

Following the submission of the response to the FI request, the Ecology report included an assessment of the NIS submitted and concludes advising no objection subject to conditions.

3.2.9. Prescribed Bodies

TII: The Authority considers that the proposed application is at variance with official policy in relation to the control of development on/affecting national roads. It is considered that the proposed development, by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network.

HSE: The report advises that it will only comment on Environmental Health impacts. It is submitted that there should be no direct emissions to ground water of foul wastewater at any stage. Surface water runoff could carry possible contaminants / pollutants / silt to the River Blackwater SAC.

The operational control measures identified in section 3.6 of the Air Quality Impact Assessment report should be implemented in full and the stack emissions should be carried out as per section 3.7. All mitigation measures with regard to noise, protection of surface waters and groundwaters and waste management should be adhered to. Pest control measures shall be provided on site and remain stored on the site pending cremation must be held with dignity and respect in secure and sanitary conditions.

Inland Fisheries Ireland: IFI is not in principle opposed to the development but given the proximity of the site to the Blackwater River, consideration as part of the overall assessment should include:

- Discharge of polluting matter as silt and fuel oils during the construction phase of the development.
- Wastewater treatment
- Fire control and chemical spillage control
- Site drainage
- Biosecurity

An Taisce: It has not been demonstrated that the site is a regionally suitable location for the crematorium, particularly with regard to traffic impacts and impacts to the nearby Blackwater River and associated SAC. Previous refusal also noted.

Development Applications Unit: Notes the application is for development activity in the Munster Blackwater catchment and recommends that screening is conducted to determine whether AA is relevant for the operation.

3.2.10. Elected Members Submissions

Cllr John Paul O'Shea: Notes disappointment that a new application for the same development on the site. The previous application was submitted without any public consultation and following the refusal of permission by the Council and ABP, and several objections to the development, there was no consultation prior to this application.

The previous concerns of the local residents include traffic, air pollution, environmental impacts, pollution of the Reiver Blackwater, risk to farming and agriculture and the suitability of the development on the site. The current application does not differ from the refused application and no changes to address the concerns previously raised are noted.

3.2.11. Third Party Submissions

There are 46 third-party submissions noted in relation to the proposed development.

The issues raised are summarised as follows:

- Totally out of character with the rural setting
- Roads and traffic issues including the increased volume of cars.
- The applicant has no experience of running crematoriums.
- Impacts on farming. The area is a special area of conservation, and the proposed industrial activity is in total contradiction of the Department of Agriculture guidelines.
- The health of humans and animals due to toxins and other harmful by-products, in particular mercury, are raised as a concern.
- Height of chimney stack is raised as a concern.
- There are currently 7 Crematoria in Ireland. There is adequate service available from other existing crematoriums such as Ringaskiddy and Shannon. There is no demand for another one.
- Devaluation of property.
- Crematoriums are self-regulating which means that emissions cannot be overseen properly.
- Planning permission has already been refused for this development at this site and there is no material change that warrants a grant of permission.
- The current application has not addressed previous reasons for refusal.
- Issues raised with regard to AA issues and the conclusion of the NIS due to lack of baseline data needed to assess the potential impacts on the QIs of the SAC, in particular the otter.
- The data used in the NIS is from 2018 and as such, is out of date. Mitigation measures require further surveys with regard to the pond and mammal surveys. The PA cannot therefore conclude that the development will not have a negative impact on the SAC.

- The objectives of the submitted Mobility Management Plan are aspirational and the proposed use of shuttle buses, will not prevent people creating a funeral cortege with the shuttle bus adding to the cortege rather than eliminating it.
- Traditions surrounding funeral services are deep rooted and the MMP would do little to influence traffic patterns and travel behaviours of mourners.
- Ballymaquirke Cross is still problematic.
- Traffic will have an impact on machinery/animals crossing the N72 which will have a negative impact on the overall road safety on this stretch of the N72.
- With only 3 jobs created, this is not a viable investment in the area.
- A hotel would be more beneficial to jobs and benefit to the economy.
- Proximity of houses to the site
- Part of the site is not within the ownership of the applicant.
- Issues raised with the detail in the application including that it states only one cremator will be installed, but the Air Quality and Noise Impact Assessment refers to 2 gas fired cremation units. There is no network supply of natural gas in the area.
- The stack height as proposed is inadequate.
- It is not appropriate to designate the site as brownfield, which relates to urban policy.
- There is no provision for a crematorium in the Kantruk Mallow MD LAP.
- The mammal and fauna study does not include crows, rooks and jackdaws.
- Comparison between the Shannon Crematorium and the subject site should not be acceptable given the differing contexts.
- Planning permission has been refused for small developments seeking access onto the N72 due to conflict with policy.
- Impact of the development on the natural habitats within the site has not been addressed.

- The former hotel did not attract the amount of business submitted in the application. If it did, it would still be in business.
- The traffic measurement survey is now 3 years old and the applicants report makes numerous references to the road being 'lightly trafficked', contradicting their own survey.
- The proposed development does not comply with local or national policy.
- The planning history presented by the applicant is incomplete.
- The site lies proximate to areas liable to flood.

4.0 Planning History

There are 12 planning applications noted in association with the subject site including the current application. I note that 6 of these applications were either deemed invalid or were withdrawn prior to a decision issuing. The following is the relevant planning history pertaining to the subject site:

PA ref: 08/5550: Permission granted to current applicant for a new hotel and 13 detached houses subject to conditions.

PA ref: 09/7036: Permission granted to current applicant for amendments to the previously permitted hotel (PA ref: 08/5550) subject to conditions.

PA ref: 13/4710: Permission granted to extend the duration of the permission granted under PA ref: 09/7036 for new hotel and 13 detached houses previously permitted hotel (PA ref: 08/5550) subject to conditions. This permission expired in June 2018.

ABP re: PL04.243731 (PA ref: 14/4744): Permission granted by Cork County Council to current applicant for the completion of the demolition of the hotel and for the construction of 4no. two-storey dwelling houses with garages subject to conditions. ABP refused permission following a third-party appeal on the grounds of settlement location policy and non-compliance with policy as set out in the Sustainable Rural Housing Guidelines.

ABP re: ABP-306647-20 (PA ref: 18/6880): Permission refused by ABP on appeal for the construction of a crematorium on the site.

5.0 Policy and Context

5.1. National Planning Framework ‘Project Ireland 2040’ 2018

The NPF identifies the national road network as a strategic investment priority, second only to housing and sustainable urban development. National Strategic Outcome 2 relates to enhance regional accessibility and provides for the

Maintaining the strategic capacity and safety of the national roads network including planning for future capacity enhancements.

5.2. Spatial Planning and National Roads Guidelines for Planning Authorities, DoECLG 2012.

Paragraph 2.5 of the documents states that “Lands adjoining National Roads to which speed limits greater than 60km/ph apply, the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant”.

5.3. County Development Plan

- 5.3.1. The Cork County Development Plan 2014, as extended, is the relevant policy document relating to the subject site. The site is located outside any zoned area and within the rural area of Co. Cork. The site lies adjacent to a national secondary road, the N72.
- 5.3.2. Chapter 6 of the Plan deals with Economy and Employment while Section 6.9 deals with Business Development in Rural Areas. County Development Plan Objective EE9-1 is relevant, and states as follows:

The development of appropriate new businesses in rural areas will normally be encouraged where:

- The scale and nature of the proposed new business are appropriate to the rural area and are in areas of low environmental sensitivity.

- The development will enhance the strength and diversity of the local rural economy,
- The proposal will not adversely affect the character and appearance of the landscape,
- The existing or planned local road network and other essential infrastructure can accommodate extra demand generated by the proposal,
- The proposal has a mobility plan for employees' home to work transportation,
- Where possible the proposal involves the reuse of redundant or underused buildings that are of value to the rural scene;
- The provision of adequate water services infrastructure; and
- Provision of a safe access to the public road network (See Objective TM 31: National Road Network (c) and (d)).

5.3.3. In terms of the indicated brownfield nature of the site, I note that the CDP seeks to encourage the reuse of brownfield land where possible in preference to developing greenfield sites in order to reduce the loss of the county's more agriculturally productive soils. Objective GI 9-1 is relevant in this regard.

5.3.4. Chapter 14 of the CDP deals with Zoning and Land Use with section 14.4 specifically dealing with brownfield development. The Plan states that it is important to acknowledge that the redevelopment of brownfield sites is inherently more sustainable than the development of greenfield sites and should be encouraged. CDP Objective ZU 4-1 is relevant and states "Recognise the employment potential of brownfield sites in both urban and rural areas in the County and their contribution to a more sustainable pattern of development."

5.4. Kanturk – Mallow Municipal District Local Area Plan 2017 (LAP)

5.4.1. The subject site is also covered by the Kanturk – Mallow Municipal District Local Area Plan 2017. With regard to reference to the subject site, the LAP identifies the site under the section relating to the village of Banteer, located to the west of the

site. In this regard, Section 4.3.16 of the LAP is relevant and states as follows (with regard to employment and economic activity):

The site of the former Duhallow Park Hotel is located c. 2km from Banteer. The hotel was a valuable asset to the community and the wider area in terms of the facilities it provided and its economic benefit to the area. The hotel closed a number of years ago and the site has been cleared and awaits redevelopment for a new use. Objective ZU 4-1 of Chapter 14 of the CDP recognises the potential of brownfield sites in urban and rural areas and their potential contribution to a more sustainable pattern of development. The Council will give favourable consideration to appropriate proposals which seek to promote the redevelopment of the site of the former Duhallow Park Hotel.

5.5. Draft Cork County Development Plan 2022

The Board will note that the Elected Members of Cork County Council will make the Cork County Development Plan 2022-2028, with or without proposed amendments and adopt the Plan on the 25th of April 2022. The Plan will then come into effect on the 6th of June 2022. With regard to the subject site, the Draft Plan advises that the Council will give favourable consideration to appropriate proposals which seek to promote the redevelopment of the site of the former Duhallow Park Hotel.

5.6. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which is located approximately 23m to the southeast of the subject site at its closest point, and 100m in terms of potential direct pathway.

The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) lies approximately 15km to the north-west of the site.

5.7. EIA Screening

- 5.7.1. The subject appeal does not relate to a class of development which requires mandatory EIA. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that

mandatory EIA is required. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.

5.7.2. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.7.3. Having regard to:

- (a) the nature and scale of the development, and
- (b) the location of the development, although close to, but outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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 and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed crematorium development. The appeal document sets out the PAs decision to refuse, the site context, presents an overview of the proposed development and the crematorium process as well as the planning history of the site. The grounds of appeal are summarised under as follows:

- The principle of development has been established and the proposed development will not have adverse effects on the efficient operation or prejudice the strategic traffic functions of the N72 National Secondary Road.
- The proposed development is not contrary to Section 28 Guidelines. The Planning Authority decision fails to give proper regard to the mitigation measures proposed in the Traffic and Transport Assessment prepared by NRB Consulting Engineers.
- The Planning Authority incorrectly interpreted Section 28 of the Planning and Development Act 2000 (as amended) and assessed the proposed development on the premise that the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) are mandatory and not advisory.
- The Planning Authority are incorrect in stating that the proposed development will generate 'extra' traffic, as the development is proximate to a national secondary route and will have a negligible and unnoticeable impact upon the capacity of the road network in the area.

It is requested that the appeal be upheld and that the Board grant the proposal to construct the crematorium at this site. The appeal includes a number of enclosures including a report from Magee Creedon Architects advising of the difficulties of acquiring a suitable site for a crematorium.

6.2. Planning Authority Response

The Planning Authority has submitted a response to the first-party appeal. The submission advises that the PA is satisfied that the environmental / ecological

considerations have been addressed. The reduced scale of the current proposed development from the previous application, and associated reduced trip generation, is noted. However, it is submitted that if permitted, and subject to successful operations over a period of time, the development will carry an expectation to expand capacity and / or hours of operation if there is a demonstratable need.

Given the submission of TII, the PA was not in a position to support the proposal for the reasons set out.

The response submits that the subject site has been vacant / disused for a considerable period, and it is considered a question for the Board to determine whether the reuse of the site, and disused access onto the N72, adheres to the DoECLG guidelines and whether it would or would not have an adverse impact on the N72 or endanger public safety by reason of traffic hazard.

6.3. Observations

6.3.1. There are 4 third-party observations submitted in relation to the proposed development.

1. John Murphy
2. An Taisce
3. Dromcummer Residents' Association
4. Island Crematorium Ltd

6.3.2. These observations reflect those issues raised during the PAs assessment of the proposed development and are summarised as follows:

- Planning history of the site including previous refusal for a crematorium
- Lack of regulations governing crematoria in Ireland.
- No identified need for the development and no appreciable community benefit arising.
- Roads and transport issues including inadequate public transport access to the site, and the impact of funeral corteges on the national road.

- The proposal to widen the road will not improve the safety or negate the negative impact of the development on current traffic using the road. There have been zero traffic movements from this site in the past 15 years and the proposed new entrance should be treated as a new access onto the N71.
- The location of the site adjacent to the busy national secondary road is not a tranquil environment for a crematorium.
- The site is located between two residential properties. The development will give rise to impacts on existing residential amenity due to noise and emissions, as well as impacts on the farming and agricultural nature of the area.
- Conflicting information included in documents relating to the number of cremation units proposed.
- Environmental impacts associated with the cremation process.
- Proximity of the site to the SAC, and the need for additional surveys – included as mitigation – indicates that they are necessary to prevent the development having likely adverse impacts on the SAC. Baseline data must be collected prior to undertaking AA screening and the NIS submitted therefore, includes gaps which have not been addressed.
- Potential risks to SAC in the event of a fire at the site.
- Comparisons with existing crematoria in the state are not appropriate as the settings of the permitted developments do not include access onto a national road where the speed limit of 100km/ph applies. The proposed development does not comply with national and local policy.
- The Mobility Management plan is inoperable due to the location of the site, the practice of funeral corteges moving at a 'sedate pace', and the frequent and unavoidable delays at funerals. Mourners are unlikely to use a shuttle bus and the 90-minute interval between services is unlikely to be followed.
- The proposed turning lane formed part of the previous application, which was deemed to be at variance with official policy.

All observations request that permission be refused for the proposed development.

7.0 Planning Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Compliance with the Development Plan & the Kanturk – Mallow Municipal District Local Area Plan 2017
3. Roads and Traffic Issues
4. Other Issues

7.1. Principle of the development

- 7.1.1. The proposed development site is accessed off the N72 National Secondary Road, in a rural area of Co. Cork. The town of Kanturk lies approximately 5km from the site and the village of Banteer, approximately 2km from the site. The closest larger settlement, of Mallow, lies approximately 15km to the east of the site. The site has a past history of commercial use and housed the former Duhallow Park Hotel, which closed approximately 16 years ago. Permission was granted, PA ref: 13/4710 refers, to extend the duration of the permission previously granted under PA ref: 09/7036 for new hotel and 13 detached houses previously permitted hotel (PA ref: 08/5550) subject to conditions (10 houses for short term lettings permitted). This permission expired in June 2018. The site was cleared prior to 2014, and the above permitted development was not constructed. It is therefore reasonable to consider at this stage, that the site does not include a commercial use.
- 7.1.2. The Board will note that there are currently no national planning guidelines in Ireland relating to the provision of crematoriums nor are there any specific guidelines relating to the operation of such a facility. As such, I have had regard to UK publications on the topic, and in particular, the UKs Federation of Burial and Cremation Authorities (FBCA) document entitled "Recommendations on the

Establishment of Crematoria” published in January 2019, which advises on the location of crematoriums, and the Policy Guidance Note 5/2 (04), entitled “Statutory Guidance for Crematoria”, which was published in revised form in September 2012, and sets out relevant environmental standards.

7.1.3. The FBCA’s document states that “There is a growing recognition that new crematoria will be built in a countryside location close to the urban fringe”. In addition, it states that “Ideal sites are rarely to be located in urban areas and it is emphasised that suitability of setting is of greater importance than its location in close proximity to population centres.”

7.1.4. In terms of site selection, the following is relevant:

The process of site selection should be aimed at achieving quietness and seclusion. A woodland or parkland setting, or an area of undulating ground with good natural features and mature trees, would enable the establishment of a good natural setting with a minimum of horticultural treatment. A visual impact assessment will help to identify any attractive views beyond the boundaries of the site that could be usefully preserved as part of the overall landscape design.

7.1.5. In addition, the document recommends that sites should have a minimum area of 2 hectares for each estimated 1000 cremations per annum and they should be “reasonably accessible by public transport”. It also recommends that a separation distance of 200 yards (183m) between any crematorium and dwelling houses in the vicinity be respected.

7.1.6. In terms of the above UK provisions, I would accept that the subject site might reasonably be considered as being in accordance with the cited recommendations and would be acceptable in principle for the proposed use. I also note the recent planning history of the site and would acknowledge that the Board did not raise a specific issue in terms of the principle of the proposed development at this site.

7.2. Compliance with the County Development Plan & the Kanturk – Mallow Municipal District Local Area Plan 2017:

7.2.1. In terms of the local policy context, the Board will note that the subject site is identified with regards to employment and economic activity in the Kanturk-Mallow

MD LAP. Section 4.3.16 of the LAP notes that the former Duhallow Hotel was a valuable asset to the community and the wider area in terms of the facilities it provided and the economic benefit to the area. It is expected that the site will be redeveloped for a new use and the LAP advises that the Council will give favourable consideration to appropriate proposals which seek to promote the redevelopment of the site. I also note that this commitment to give favourable consideration of appropriate proposals to redevelop the site is included in the Draft Cork County Development Plan 2022, due to come into effect on the 6th of June 2022.

7.2.2. The current County Development Plan, Chapter 6, deals with Economy and Employment while Section 6.9 deals with Business Development in Rural Areas. County Development Plan Objective EE9-1 is relevant and presents 8 criteria for the provision of new businesses in rural areas. In addition, Chapter 14, deals with zoning and land use with Section 14.4 specifically dealing with brownfield development.

7.2.3. In terms of the subject application, and the criterion cited in Object EE9-1 of the CDP, the Board will note that 3 relate to roads and traffic, and one relates to water services infrastructure which I will deal with under separate headings. In terms of the other 4 criterion, I would accept that the development as proposed:

- Represents a commercial development which is smaller than the previous commercial use on the site.
- It is noted that the development will contribute to the local rural economy by providing employment for a small number of people, albeit less than the former hotel use might have provided for.
- The proposed design of the building will be smaller than the previous hotel on the site. That said, given the elevations and topography of the site, the proposed building will be located at an elevated position. I note the proposal to clad the building in order to fit into the wooded nature of the site which would minimise the visual impacts associated with the proposed development. I am satisfied that the proposal, if permitted, would not adversely affect the character and appearance of the landscape.
- Given that the previous building on the site has been demolished for a number of years, there is no potential to reuse redundant or underused buildings on the site. I do note that the remaining retaining walls and

constructed elements are to be reused with the proposed crematorium building to be located on top the previously raised area to the rear of the site.

- 7.2.4. In light of the above and having regard to the principle of reusing brownfield land where possible in preference to developing greenfield sites in order to reduce the loss of agriculturally productive soils, I consider that the principle of the proposed development can be deemed acceptable. issues relating to roads and traffic, visual impacts and water services are addressed further below.

7.3. Roads and Traffic Issues:

- 7.3.1. The Board will not that permission was refused for essentially the same development at this site, ABP re: ABP-306647-20 refers, for 2 reasons which included the following:

Having regard to the strategic traffic function of national roads as set out in Section 1.4 of the Spatial Planning and National Roads Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in January, 2012, the location of the site and its exclusive access off the N72, the Board considered that the siting of the proposed crematorium on the subject site would adversely affect the road's operating efficiency and prejudice its strategic traffic function. The proposed development would be contrary to the principles of good traffic management, would adversely affect the use of a national road and would, therefore, be contrary to the proper planning and sustainable development of the area.

The primary difference between the previously refused application for the crematorium and the current proposal is the omission of 1 of the 2 cremation units sought. I note that the building as previously considered, has not changed in terms of scale, layout or floorspace.

- 7.3.2. I note the primary arguments of the applicant/appellant with regard to the former use of the site as a hotel, together with the history of planning permissions granted at the site. The former hotel on the site provided 30 en-suite bedrooms as well as providing for weddings and functions on a weekly basis until it closed in January 2006. In 2008, planning permission was granted to the current applicant, to construct a new

hotel and ultimately 10 detached dwellings which were to be used for short-term letting only. In 2009, permission was granted to amend the hotel. Permission to extend the duration of the permission was granted in 2013 with the permission having expired in June 2018. The hotel was demolished on foot of the grant of permission prior to 2014.

- 7.3.3. The permission to replace the former hotel on the site was not implemented and as such, given the intervening time lapse, the commercial use of the site might reasonably be considered to have been lost. The consideration of the impacts associated with the proposed development should, therefore, be considered in the context of a new development site.
- 7.3.4. I note the submission of the TII and the National Roads Office with regard to the proposed development, both considering that the proposed development is at variance with official policy in relation to the control of development on/affecting national roads. In particular, Paragraph 2.5 of the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) states that ‘it is the policy of the planning authority to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh apply.’
- 7.3.5. In the context of the subject site, I note that the previous grant of permission for development was granted prior to the implementation of the 2012 national guidelines. Current policy, Section 1.4 of the guidelines refers, seeks to ensure that “the planning system must ensure that the strategic traffic function of national roads is maintained by limiting the extent of development that would give rise to the generation of short trip traffic on national roads or alternatively by ensuring that the trip demand from future development will primarily be catered for on the non-national network.”
- 7.3.6. In terms of the previous Board decision, the primary concern related to the impact of the development on the strategic traffic function of the N72, and in particular, the impact of slow-moving funeral corteges on the national secondary road. In principle, the Board considered that the proposed development would be contrary to the provisions of Section 1.4 of the Guidelines due to the location of the site and the exclusive access onto the N72. In acknowledging the current application, and the

revised TAR submitted, I remain concerned that the location of the proposed development is inappropriate on the basis that the only access available is via the national secondary road, where the maximum speed limit applies. I do not consider that the current proposal addresses the Boards previous reason for refusal and would, if permitted be contrary to the principles of good traffic management, would adversely affect the use of a national road and would, therefore, be contrary to the proper planning and sustainable development of the area.

- 7.3.7. In addition, the proposed development requires the alteration of the N72, and the introduction of a ghost island, in order to facilitate the right turn into the site. I note the argument of the applicant which indicates that the traffic generated by the former use of the site as a hotel substantially exceeds the likely traffic generated by the proposed crematorium. I also note that there is likely to be a of 5 separate ceremonies on a typical day, rising to a maximum of 7. The response to the further information request indicates that the provision of a right turn lane, as requested by CCC previously, and the removal of a limited passing opportunity represents an improvement in traffic safety characteristics. In noting the deficiency of crematoria within the local catchment, the applicant submits that any local safety issues may need to be balanced against the increased travel distances and the increase in traffic on the roads for those users travelling outside the catchment.
- 7.3.8. In terms of the proposed ghost island, I note that the provision of same will remove approximately 430m of passing opportunity on the N72 in the vicinity of the site. Full overtaking sight distance on national roads where the 100 kph speed limit applies is 580m, as provided for in the TII publication DN-GEO-03031 – Rural Road Link Design, June 2017. The available distances in the vicinity of the site are measured at 440m eastbound, and less westbound, below the recommended distances. The Board will note that the applicant has previously questioned the appropriateness of the use of this section of the N72 for overtaking.
- 7.3.9. In terms of the traffic generated by the proposed development, and the traffic impact assessment carried out, I note that the applicant has applied the worst-case scenario with 40 cars arriving and departing within a 15-minute interval, equating to 160 cars per hour. It is submitted that in the event of a 17-car cortege, the proposed right turning lane will be of sufficient length to accommodate 16 car lengths if required, with additional space available within the hatching if required. This proposed turning

lane will prevent the blocking of the straight through lanes. The assessment also notes that a cortege of 16 cars is not anticipated due to the scale of the proposed crematorium, with 50 seats.

- 7.3.10. While the figures presented in the robust Transportation Assessment Report submitted with the application suggest that the site may be capable of accommodating the proposed development as proposed, the concerns of the TII and the NRO are considered valid. The N72, as a national road, rather than a local or county road, comprises part of the strategic road network and as such, the strategic role and protection of the operational efficiency is a priority under current policy. I do not consider that the current proposal has adequately addressed the previous concerns of the Board in terms of the adverse effect on the national road.

7.4. Water Services & Site Suitability Issues

- 7.4.1. In terms of site suitability, the Board will note that the application advises that the proposed house is to be served by a private well and a proposed proprietary treatment system. The Board will note that there is a mains water supply along the N72 but there is an issue in terms of the difference in levels which prevents a connection to this mains pipe due to the inability to provide adequate pressure to service the development. As such, a bored well is proposed. I note no objections to this from the Area Engineer. The proposed well is therefore considered acceptable.
- 7.4.2. The proposed development will connect to a private wastewater treatment system which will be installed to serve the development. I note that this new system will replace the previous one which served the hotel development. While no specific details are included with the current application, I note the planning history of the site, and reference to a site characterisation report prepared in 2018 which concluded, given the vulnerability of the site, a raised soil polishing filter will be required. It is noted that the proposed system will be installed and maintained by EPS Ltd, ensuring annual servicing and maintenance.
- 7.4.3. The proposed development of the site will also see the decommissioning of the existing (unused) system, and its' removal from the site. I note that the existing system included an outflow to the River Blackwater. This outflow pipe from the tank will also be decommissioned and closed and left in the ground in a clean state.

- 7.4.4. Having considered the information provided on the planning authority file with regard to the proposed development, and in particular Appendix C of the submitted Construction, Operation & Waste Environmental Management Plan for the development, together with the planning history associated with the subject site, I am satisfied that the sites suitability with regard to the treatment and disposal of wastewater has been considered.
- 7.4.5. I am satisfied that overall, if permitted, the development is acceptable in terms of site suitability for the treatment and disposal of wastewater arising from the development.
- 7.4.6. In terms of surface water management, all necessary precautions will be put in place during the construction phase of the development to ensure that silt is removed/attenuated and will not escape from the site. Surface water will be directed to a silt settlement pond, with a 'silt curtain filter' and will be managed via a surface water collection network before discharging to the existing culvert that runs under the N72 and ultimately the River Blackwater. I note that the current proposal provides details of the intended surface water management for the proposed widening of the N72 (omitted under the previous application), and the proposal to insert a right-hand turning lane on the N72.
- 7.4.7. The current application submits that to facilitate the new traffic turning lane, the N72 is to be widened to give a net extra area of paved surface of 113m², and the design calculations will make provision for the direct new drainage of 250m² of road hard paving. The new drainage will be provided by a new drainage trench, 1.6m deep x 1m wide over a length of 42m, which will be filled with stone, wrapped in a geotextile membrane with water percolating to ground. While I note that there is no clarity who will undertake the modifications to the N72, the NIS submits that the drainage works and environmental protection measures to be implemented, will prevent any release of silt to the River Blackwater. I consider the information submitted is acceptable.

7.5. Other Issues:

7.5.1. Cremation Process & Residential Amenity Impacts:

The nature of the cremation process is fully described in the submitted documentation, and I would note the primary impacts arising relate to noise and air

emissions. The applicant has submitted an Air Quality and Noise Impact Assessment for the proposed crematorium to address these issues.

Air Quality:

The proposed crematorium will provide for 1 gas fired cremation unit (although the submitted Air Quality and Noise Impact Assessment document refers to two units) which will be vented to a single exhaust stack, located above roof level of the building. The emissions to atmosphere will include combustion gasses NO_x, SO₂, CO, particulate matter and water. The existing air quality in the vicinity of the site is characterised as being good where the principal sources of air emissions arise from traffic on the N72. Given the small-scale activity proposed, the report considers that the existing ambient air quality has sufficient 'budget' to accommodate the minor increases in air emissions associated with the cremation process to ensure no adverse impact on the environment. The Board will also note that the response to the Planning Authority's further information request updated information with regard to the number of cremation units and EPA data.

Section 3.5 of the response to FI sets out the modelling methodology employed which allows for direct comparison with National Air Quality Standard Limit Values and relevant air quality criteria for the modelled parameters. The results of the AERSCREEN air dispersion model demonstrates that emissions to air from the crematorium exhaust stack will be effectively dispersed and that modelling emissions will be lower than the air quality limit values specified in the Air Quality Standard Regulations 2002, SI No. 1820 of 2011. The proposed development also provides for air emission control measures to avoid adverse impacts on the ambient air quality and surrounding environment.

It is further noted that as the proposed crematorium is not a Scheduled Activity under the EPA Act 1992 or the Air Pollution Act 1987, the development does not require an IPPC licence from the EPA or an Air Emissions Licence from the Local Authority. However, best practice requires the operator of the crematorium to engage continuous monitoring and an independent MCERT accredited stack emissions specialist to conduct an emissions survey during the commissioning of the cremators.

The Board will note the AWN Consulting report, prepared on behalf of the Planning Authority with regard to the proposed development. I note that the PA had no objections to the proposed development in terms of environmental impacts. Overall, I am generally satisfied that the proposed development can be considered acceptable in terms of potential impacts on air quality.

Noise:

In terms of noise, again, the Board will note that the initial assessment was updated following a request for further information from the Planning Authority, addressing the potential impacts associated with the operation of 1 cremator unit at the development. The principal source of noise emissions generated at the crematorium will be from the gas burners, fans associated with the gas extraction system and the operation of the substation. The report notes that all plant will be housed within the building which shall provide significant control and attenuation of potential noise emissions. In addition, the report notes minor external noise sources will be generated by an increase in private vehicle movements associated with the cremation ceremony. The operation of a crematorium by its nature, is designed to be a quiet and sensitive process which is neither intrusive within or outside the crematorium building.

In terms of the baseline noise environment, a survey was carried out at either end of the proposed development site, and in proximity to houses. The results of the survey recorded that the baseline noise levels during the day are high due to the proximity of the N72, and ranging from 67.5-68.5dBA $L_{Aeq, 1hr}$.

In terms of noise impacts associated with the proposed construction phase of the crematorium, the noise assessment identifies all the machinery which will be used at the site and indicates a noise limit of 70dB $L_{Aeq, 1hr}$. The report also notes that there will be approximately 10 HGV vehicle movements in total to and from the site. Given the proximity of the site to the N72, it is concluded that the additional HGV movements will have an adverse impact on the existing noise climate of the wider area or on local receptors.

In terms of the operational phase, the main source of noise is indicated as being the cremator unit. With all the cremation equipment operating, the internal noise level within the cremation plant room is calculated to be 79dB(A). To ensure the noise

does not impact the internal environment of the building, or the external environment, the plant room will be constructed using a proprietary acoustic system of layers of acoustic plasterboard and acoustic insulation on walls and ceilings which will attenuate the plant noise from adjoining spaces by at least 48dB(A). The maximum noise level, at 1m from the external façade of the plant room is indicated to be 31dB(A). Overall, the noise impact of the crematorium on the neighbouring sensitive properties is calculated to be between 25dB(A) and 29dB(A).

When the noise of traffic arising from the proposed development is factored into the noise impact assessment, the predicted noise is calculated at between 28dB(A) and 35dB(A). I note that these levels are substantially below the accepted noise limit level of 55dB(A). In addition, I note the proposed mitigation measures to be employed during the construction and operational phases of the development to ensure that noise generated will be minimal and the proposal to carry out a noise assessment survey following the commissioning of the crematorium by an independent acoustic consultant.

Overall, I am generally satisfied that the proposed development can be considered acceptable in terms of potential noise impacts.

7.5.2. Visual Impacts:

The proposed development site is located within a landscape which is described in the Cork Landscape Character Assessment as a fertile plain with moorland ridge. The landscape value and sensitivity are identified as being high while the importance of the landscape is deemed to be County level. Having regard to the previous use of the site, the topography of the site has been altered, with the rear of the site elevated. The site includes an area of woodland and the proposed development seeks to retain the majority of the existing trees and hedgerows. The application included a landscaping plan.

Having regard to the information presented as part of the proposed development, together with the overall design of the crematorium building and the immediate landscape adjacent, I am satisfied that if permitted, the development would not give rise to any significant visual impacts in the landscape.

7.5.3. **Development Contribution:**

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

8.0 **Appropriate Assessment**

8.1. **Introduction:**

The site is not located within any designated site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which is located approximately 23m to the southeast of the subject site at its closest point, and approximately 100m in terms of potential direct pathway. The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) lies approximately 15km to the north-west of the site.

- 8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. The Board will note that a Natura Impact Statement (NIS) was submitted as part of documentation for permission for the proposed development to assess the likely or possible significant effects, if any, arising from the proposed development on any European site. An Appropriate Assessment Screening Report, as well as a Literature Review on the Potential Ecological Effects of Mercury and Dioxins/Furins on Otter and Other Wildlife report, Amphibian Survey and Pond Management Plan and a Mammal Fauna Study were also provided by the applicant.
- 8.1.3. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant

effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.

8.1.4. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:

- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

8.2. AA Screening Report

8.2.1. The application was accompanied by an Appropriate Assessment Screening Report, dated December 2020 and prepared by Limosa Environmental Ecological & Environmental Consultancy. This report assesses whether significant effects to the Natura 2000 network are likely to occur as a result of the project. The report sets out the methodology employed and provides a description of the project proposed as well as including a description of the site, noting that no invasive species were recorded other than a Cherry Laurel which forms part of the southern hedgerow of the site. Section 3.3.2 of the report sets out the baseline ecology of the footprint of the proposed development.

8.2.2. The AA Screening Report identifies the zone of influence as 5km from the boundary of the development. The report identifies the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) as the only Natura 2000 site within this radius, located at 40m from the site, as well as Banateer Ponds pNHA, located approximately 2.5km from the site. The report notes that there is no hydrological connection to the SAC as the pond within the subject site does not connect to any streams or watercourses and there is no source receptor pathway identified. A stream is identified as emerging from underground in the north-east of the site (within woodland) and runs in a south-westerly direction towards the pond. A second stream flows in a north to south direction along the eastern perimeter of the site and out of the site via a drainage

pipe which runs under the N72 to the agricultural grasslands to the south of the site. The stream ultimately drains to the Blackwater River.

- 8.2.3. The screening report concludes that given the proximity of the site to the Blackwater River (Cork/Waterford) SAC, without incorporation of mitigation measures, significant impacts on the SAC cannot be discounted. The Screening Report considers that no other SAC or SPA lies within the zone of influence of the project and focuses its assessment on the Blackwater River (Cork/Waterford) SAC.
- 8.2.4. The Report presents details of the relevant SAC, including details of the qualifying interests of Blackwater River (Cork/Waterford) SAC. An Assessment of Potential Impacts is presented in Section 3.3.3 of the document and seeks to determine the coincidence between the QIs and the zone of influence of the proposed development. Natura 2000 sites are considered relevant where a source-pathway-receptor link exists, and the report concludes that there are potential impacts associated with the proposed development on a number of the QIs for the SAC. The Conclusion of the AA Screening (Stage 1) is that a full AA will be required with regard to the SAC. The report includes a Natura Impact Statement at Section 4 of the document.

8.3. Natura Impact Statement

- 8.3.1. The Natura Impact Statement submitted by the applicant is included in Section 4 of the AA document. The NIS seeks to examine the potential impacts of the proposed development on the following European Site:

- Blackwater River (Cork/Waterford) SAC (Site Code: 002170)

Table 1 of the report identifies the qualifying species and habitats and their conservation objectives for the SAC, while Table 2 sets out the conservation status of the QIs. Table 6 identifies the potential impacts of the proposed development.

- 8.3.1. Having reviewed the NIS and supporting documentation, including the other ecological assessment documents submitted with the application, together with relevant submissions, and having undertaken a site inspection, I am satisfied that a Stage 2 Appropriate Assessment is required for the following European Site on the basis of the proximity of the sites to the appeal site and the potential for indirect impacts to water quality arising:

- Blackwater River (Cork/Waterford) SAC (Site Code: 002170)

8.3.2. I am satisfied that the submitted NIS, together with the additional information submitted in the EclA, provides adequate information in respect of the site, clearly identifies the potential impacts, and uses best scientific information and knowledge. Section 4.1 of the NIS document presents an assessment of potential impacts and proposed mitigation measures to be employed in terms of the surface / storm water run-off during the construction phase and operational phase, impacts as a result of dust, noise and waste pollution, wastewater treatment and crematorium, emissions to air.

8.3.3. The NIS presents an assessment of potential residual impacts of the development on relevant QIs in tabular form, Table 7 refers, and concludes that, with the implementation of the mitigation measures summarised in section 4.4, on the basis of objective scientific information, that the proposed plan, individually or in combination with other plans or projects, will not adversely affect the integrity of the European Sites. I am satisfied that the information is sufficient to allow for Appropriate Assessment of the proposed development.

8.4. Consultations and Observations

8.4.1. The AA Screening Report and NIS submitted with the application lists all data sources and guidance documents used in the preparation of the document.

8.4.2. The County Council Environment Report initially raised concerns in terms of noise associated with the proposed development. The Council also engaged the services of AWN Consulting to complete a technical review of the Air Quality section of the environmental report submitted with the application. This AWN Consulting report raised a number of concerns in relation to the information used in the applicants' assessment, which would have been considered not to reflect the most up to date data available. Following the submission of the response to FI, the Environment Section raised no further concerns, while AWN Consulting noted that issues raised in their original report were not addressed.

8.4.3. The Ecologist with Cork County Council initially required further information, with regard to measures proposed to deal with surface water impacts and air emissions and the potential to have adverse effects on the QIs of the SAC. I note that on

receipt of the response to the further information request, the County Ecologist advised no further objections to the proposed development.

- 8.4.4. The HSE require that the operational control measures identified in section 3.6 of the Air Quality Impact Assessment report should be implemented in full and the stack emissions should be carried out as per section 3.7. All mitigation measures with regard to noise, protection of surface waters and groundwaters and waste management should be adhered to. Pest control measures shall be provided on site and remain stored on the site pending cremation must be held with dignity and respect in secure and sanitary conditions.
- 8.4.5. Inland Fisheries Ireland raised no objection in principle to the proposed development but given the proximity of the site to the Blackwater River, required that consideration be given to all potential discharges to the river.
- 8.4.6. An Taisce also raised concerns in terms of the potential impacts of the development on the Blackwater River and associated SAC.
- 8.4.7. I note that the third-party submissions, including a submission from an elected member of Cork County Council, raised a number of concerns with regard to the potential impact of the development on the River Blackwater as well as to the local environment with risk to farming and agriculture noted. A number of the third-party submissions also consider that due to the lack of baseline data needed to assess the potential impacts, together with the use of out-of-date data, it cannot be concluded that the development will not have a negative impact on the SAC.

8.5. Screening for Appropriate Assessment:

- 8.5.1. I have presented a summary of the AA Screening report submitted with the application above. The purpose of AA screening, is to determine whether appropriate assessment is necessary by examining:
 - a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
 - b) the likely effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives and considering whether these effects will be significant.

- 8.5.2. The AA Screening Report submits that the zone of influence extends to 5km from the boundary of the development. The report identifies the relevant Natura 2000 site within the identified zone of influence as being the Blackwater River (Cork/Waterford) SAC (Site Code: 002170). In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site.
- 8.5.3. I am satisfied that the Kilcolman Bog SPA (Site Code 004095) can be screened out in the first instance, as the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated site to the development site and therefore, I conclude that no significant impacts on the Kilcolman Bog SPA (Site Code 004095) is reasonably foreseeable.
- 8.5.4. In addition to the above, the Board will note that the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) lies approximately 15km to the north-west of the site. This SPA was not considered as part of the applicants NIS. The Stack's to Mullaghareirk Mountains is a very large site centred on the borders between the counties of Cork, Kerry and Limerick. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for Hen Harrier. This SPA is a stronghold for Hen Harrier and supports the largest concentration of the species in the country. I am satisfied that the SPA can be screened out in the first instance, as the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated site to the development site and therefore, I conclude that no significant impacts on the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) is reasonably foreseeable.
- 8.5.5. I consider that the following Natura 2000 sites, located within 23m of the subject site, can be identified as being within the zone of influence of the project, for the purposes of AA Screening, as follows:
- Blackwater River (Cork/Waterford) SAC (Site Code: 002170)

8.6. Conclusion on Stage 1 Screening:

8.6.1. Having regard to the information submitted as part of the application, together with the information available on the NPWS website, the scale and nature of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my inspection of the site and the surrounding area, I am satisfied that the following site can be screened out from further assessment:

- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161)

8.6.2. It is further reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on the above European sites, in view of the sites' conservation Objectives and that a Stage 2 Appropriate Assessment is not required in respect of this site.

8.6.3. There is potential however, for the development to give rise to potential impacts in terms of water quality of the Blackwater River (Cork/Waterford) SAC during the construction phase of the development. Potential impacts on qualifying features, conservation interests and conservation objectives are primarily related to water quality.

8.6.4. In light of the above, a stage 2 Appropriate Assessment was carried out in relation to the following European Sites:

- Blackwater River (Cork/Waterford) SAC (Site Code: 002170)

The potential impacts (direct / indirect and in-combination effects) of the development on the site are examined in light of each of the site's conservation objectives.

8.7. Stage 2 Appropriate Assessment

8.7.1. The following table sets out the qualifying interests for the identified Natura site:

European Site	Qualifying Interests
<p>Blackwater River (Cork/Waterford) SAC (Site Code: 002170)</p> <p>Located approx. 20m to the South of the site</p>	<ul style="list-style-type: none"> • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • Perennial vegetation of stony banks [1220] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Water courses of plain to montane levels with the <i>Ranunculon fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] • Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] • <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029] • <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092] • <i>Petromyzon marinus</i> (Sea Lamprey) [1095] • <i>Lampetra planeri</i> (Brook Lamprey) [1096] • <i>Lampetra fluviatilis</i> (River Lamprey) [1099] • <i>Alosa fallax fallax</i> (Twaite Shad) [1103] • <i>Salmo salar</i> (Salmon) [1106] • <i>Lutra lutra</i> (Otter) [1355] • <i>Trichomanes speciosum</i> (Killarney Fern) [1421]

Blackwater River (Cork/Waterford) SAC (Site Code: 002170)

8.7.2. The River Blackwater is one of the largest rivers in Ireland, draining a major part of Co. Cork and five ranges of mountains. The site consists of the freshwater stretches of the River Blackwater as far upstream as Ballydesmond, the tidal stretches as far as Youghal Harbour and many tributaries, the larger of which include the Licky, Bride, Flesk, Chimneyfield, Finisk, Araglin, Awbeg (Buttevant), Clyda, Glen, Allow, Dalua, Brogeen, Rathcool, Finnow, Owentaraglin and Awnaskirtaun. The portions of the Blackwater and its tributaries that fall within this SAC flow through the counties of Kerry, Cork, Limerick, Tipperary and Waterford. Nearby towns include Rathmore,

Millstreet, Kanturk, Banteer, Mallow, Buttevant, Doneraile, Castletownroche, Fermoy, Ballyduff, Rathcormac, Tallow, Lismore, Cappoquin and Youghal.

- 8.7.3. The site is also important for the presence of several E.U. Habitats Directive Annex II animal species, including Sea Lamprey (*Petromyzon marinus*), Brook Lamprey (*Lampetra planeri*), River Lamprey (*L. fluviatilis*), Twaite Shad (*Alosa fallax fallax*), Freshwater Pearl Mussel (*Margaritifera margaritifera*), Otter (*Lutra lutra*) and Salmon (*Salmo salar*). The Awbeg supports a population of White-clawed Crayfish (*Austropotamobius pallipes*). This threatened species has been recorded from a number of locations and its remains are also frequently found in Otter spraints, particularly in the lower reaches of the river. The freshwater stretches of the Blackwater and Bride Rivers are designated salmonid rivers. The Blackwater is noted for its enormous run of salmon over the years.

Overall, the River Blackwater is of considerable conservation significance for the occurrence of good examples of habitats and populations of plant and animal species that are listed on Annexes I and II of the E.U. Habitats Directive respectively. Furthermore, it is of high conservation value for the populations of bird species that use it. Two Special Protection Areas, designated under the E.U. Birds Directive, are also located within the site - Blackwater Callows and Blackwater Estuary. Additionally, the importance of the site is enhanced by the presence of a suite of uncommon plant species.

8.8. Conservation Objectives:

- 8.8.1. The Conservation Objectives for the relevant designated site are as follows:

European Site	Conservation Objectives
Blackwater River (Cork/Waterford) SAC (Site Code: 002170) Located approx. 20m to the South of the site	<ul style="list-style-type: none"> The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the following habitat and species listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> Austropotamobius pallipes (White-clawed Crayfish) [1092] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106]

	<ul style="list-style-type: none"> ○ Estuaries [1130] ○ Mudflats and sandflats not covered by seawater at low tide [1140] ○ Perennial vegetation of stony banks [1220] ○ Salicornia and other annuals colonising mud and sand [1310] ○ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] ○ <i>Trichomanes speciosum</i> (Killarney Fern) [1421] ○ Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] <ul style="list-style-type: none"> • The NPWS has identified a site-specific conservation objective to restore the favourable conservation condition of the following habitat and species listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> ○ <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029] ○ <i>Petromyzon marinus</i> (Sea Lamprey) [1095] ○ <i>Alosa fallax fallax</i> (Twaite Shad) [1103] ○ Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] ○ <i>Lutra lutra</i> (Otter) [1355] ○ Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] ○ Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] • The status of <i>Taxus baccata</i> woods of the British Isles [91J0] as a qualifying Annex I habitat for the Blackwater River (Cork/Waterford) SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this habitat.
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8.9. Potential Significant Effects

8.9.1. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated.

8.9.2. In terms of indirect effects, and with regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- **Habitat loss / alteration / fragmentation:** The subject site lies at a remove of some 23m from the boundary of any designated site at its closest point. As such, there shall be no direct or indirect loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- **Disturbance and / or displacement of species:** The site lies within a rural area of Co. Cork, but on a previously developed site. The Board will note that any buildings which once were present on the site have been removed, with the foundations of buildings and the two access points to the site the only remaining physical evidence. Given the years since the clearance of the former buildings, the site has wilded to a degree. The site lies in a rural area which is sparsely populated with the access fronting onto the busy National Route, the N72. The maximum speed limit applies to the public road in the vicinity of the site, and there is little physical development in the vicinity.

No qualifying species or habitats of interest, for which the designated site is so designated, are noted to occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement impacts to land based species or habitats for which the identified Natura 2000 site have been designated.

In terms of the proposed works to the pond, ie its renovation and extension, the NIS has found that the pond is of limited value for aquatic species, invertebrates, amphibians, macrophytes and fish. The NIS indicates that

European Eel (*Anguilla Anguilla*) if present in the pond, will be translocated to the Blackwater River, with other species translocated to suitable habitat as necessary. I find this part of the assessment to be inconclusive and ambiguous. The Board will note that the baseline surveys which present the data relating to species was undertaken in 2018, which I consider to be out of date at this time.

- **Water Quality:** The proposed development relates to the construction of a crematorium on lands within a rural area. The development will require the installation of a private WWTP to service the development with a new bored well. Given the presence of a culvert under the N72, it is reasonable to conclude that this may act as a conduit for construction pollutants to reach the Natura 2000 site. There is potential, therefore for construction pollutants to temporarily affect water quality and in particular sediment pollution, and therefore impact on the water dependent habitats and species within the SAC.

The application includes a construction and environmental management plan for the site, and a number of mitigation measures are identified. I also note that standard water protection measures are incorporated into the overall design of the scheme, not identified as mitigation in the context of AA. In addition, I note that the NIS provides clear proposals for the management of surface water during the construction and operation phases of the development. Under the previous application on the site, I note that there was no objections noted with regard to the surface water management proposals within the site, which include a silt settlement pond fitted with a silt curtain filter before discharging to the existing culvert, together with the proposal to construct a new berm or an alternative watertight barrier to prevent the escape of water, which will be put in place before removing the existing fence.

The concerns which were the subject of the previous refusal of permission for the development at this site related to the need to insert a right-hand turning lane on the N72. The previous NIS did not include any mitigation measures to ensure that surface water run-off from the road works required and the Board concluded that it was precluded from granting permission in

this regard. The current NIS includes proposals with regard to this element of the development. To facilitate the new traffic turning lane, the N72 is to be widened to give a net extra area of paved surface of 113m², and the design calculations will make provision for the direct new drainage of 250m² of road hard paving. The new drainage will be provided by a new drainage trench, 1.6m deep x 1m wide over a length of 42m, which will be filled with stone, wrapped in a geotextile membrane with water percolating to ground.

While I note that there is no clarity who will undertake the modifications to the N72, the NIS submits that the drainage works and environmental protection measures to be implemented, will prevent any release of silt to the River Blackwater. I consider the information submitted to reasonably address the Boards previous concerns in this regard.

- 8.9.3. Having regard to the above, it might be reasonable to consider that, subject to the full implementation of the mitigation measures as described in the submitted NIS, there is little or no potential for impacts on water quality or QIs associated with the SAC arising. However, I refer the Board to the proposed mitigation measures as detailed in Section 4.4 of the NIS which states that:

‘Given the time that has lapsed since the baseline pond survey (2018), a pond survey should be undertaken prior to any works concerning the pond, to safeguard against the status of the pond having changed since 2018’

And

‘Given the time that has lapsed since the baseline mammal survey (2018), a mammal survey should be undertaken across the site prior to construction works commencing.’

In light of the above, and in the absence of up-to-date data, I do not consider it possible to conclude that significant impacts are unlikely to occur on habitats and species identified as qualifying interests for the Blackwater River SAC.

8.10. In Combination / Cumulative Effects

- 8.10.1. In terms of potential in-combination / cumulative impacts associated with the proposed development, I note Section 4.3 of the NIS which has considered planning

applications and other factors in this context. The Board will note that the NIS considers that the development will involve an increase in motor vehicles at the site. The assessment notes that nitrogen deposits can occur from road traffic emissions, it is submitted that trees are particularly effective scavengers of air pollutants like ammonia. As such, it is considered that the landscape design for the site will mitigate for any increased nitrogen deposition as a consequence of the presence of motor vehicles.

- 8.10.2. Given the nature of the proposed development, being the construction of a crematorium, I consider that any potential for in-combination effects on water quality in the Blackwater River can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in the Blackwater River (Cork/Waterford) SAC via rivers and other surface water features are also subject to AA.

8.11. Mitigation Measures

- 8.11.1. Mitigation and best practice measures are proposed to address the potential adverse effects of the development to ensure that the development will not adversely affect the identified European Sites or the conservation status of protected habitats and species they support. A construction and environmental management plan to oversee the development has also been prepared.
- 8.11.2. The NIS also includes a suite of environmental measures which deal with runoff prevention and ecological monitoring associated with the construction phase. The Board will also note the inclusion under the heading of mitigation measures, the comments that due to the time lapse since the initial baseline pond and mammal surveys, new surveys are recommended to be undertaken prior to the commencement of development.

8.12. Overall Appropriate Assessment Conclusion

- 8.12.1. Having regard to the nature of the subject development site, the nature of the proposed development, together with the details presented in the Natura Impact Statement and the information presented in the Literature Review on the Potential Ecological Effects of Mercury and Dioxins/Furans on Otter and Other Wildlife, the

Amphibian Survey and Pond Management Plan and the Mammal Fauna Study, I consider that there are gaps in the baseline data with regard to habitats and species within and using the proposed development site.

8.12.2. In particular, I note the mitigation measures included in the NIS, which require the carrying out of updated surveys with regard to mammals using the site, which might include Otter, a QI of the Blackwater River SAC, prior to the commencement of development. As such, I do not consider the information presented adequate in order to carry out a Stage 2 Appropriate Assessment and I cannot consider it reasonable to conclude on the basis of the information on the file, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the following Natura 2000 site, or any other European site, in view of the sites Conservation Objectives:

- Blackwater River (Cork/Waterford) SAC (Site Code: 002170)

In these circumstances, I consider that the Board is precluded from granting permission.

9.0 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reasons.

10.0 Reasons and Considerations

1. Having regard to the lack of up-to-date baseline data, and the indication that further assessments are required with regard to Appropriate Assessment, in the submitted Natura impact statement, the Board is not in a position to conclude that the proposed development individually, or in combination with other plans or projects, would not adversely affect the integrity of European Site the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code 002170), in view of the site's conservation objectives, and the Board is precluded from granting permission for this proposed development.

2. Having regard to the strategic traffic function of national roads as set out in Section 1.4 of the Spatial Planning and National Roads Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in January, 2012, the location of the site and its exclusive access off the N72, the Board considered that the siting of the proposed crematorium on the subject site would adversely affect the road's operating efficiency and prejudice its strategic traffic function. The proposed development would be contrary to the principles of good traffic management, would adversely affect the use of a national road and would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

05/04/2022