



An
Coimisiún
Pleanála

Inspector's Addendum Report

ACP-322939-25

Development	Alterations to 4194/15. Refurbishment of structure and accommodation of cremator with all associated site works. Retention of removal of plant room.
Location	Former Tayto Factory, Greencastle Road, Coolock, Dublin 17, D17WF44
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4988/22
Applicant(s)	T. Stafford and Sons Ltd.
Type of Application	Permission (Remitted Case)
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Mannings Bakery Ltd
Observer(s)	None
Date of Site Inspection	27 th October 2023
Inspector	Frank O'Donnell

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1.0 Introduction

- 1.1.1. This Addendum Report relates to a remitted case (T. Stafford & Sons Unlimited v An Bord Pleanála (Case Ref. no. ACP-322939-25, previously Appeal Ref. no. ABP-315439-22)). A Notification of Decision to GRANT permission was issued by the Local Authority on 28th November 2022 subject to 7 no. conditions, as planning reg. ref. no. 4988/22 refers. This decision was the subject of 1 no. Third Party Appeal lodged with An Coimisiún Pleanála (formerly An Bord Pleanála) on 23rd December 2022, Appeal Ref. No. ABP-315439-22).
- 1.1.2. The Commission issued a SPLIT DECISION under Appeal ref. no. ABP-315439-22 on 8th February 2024 to
- **GRANT** Retention for the removal of plant room at rooftop level subject to 1 no. condition
 - and
 - **REFUSE** permission to refurbish an existing steel open frame structure to the rear of the building and incorporate it into the approved funeral home to accommodate an electric cremator and associated three number flues and ancillary site works including landscaping.
- 1.1.3. Under the Reasons and Considerations (2) for the Refusal element, the Commission refused permission on the grounds of material contravention of the zoning, impacts on the amenities of premises in the area, including residential amenity and that the proposals would unduly diminish neighbouring development potential and thus the consolidated and comprehensive development of the area.
- 1.1.4. Judicial review proceedings were lodged on 28th March 2024 seeking to quash the refusal part of the Commission's decision only in ABP-315439-22.
- 1.1.5. By order of the High Court, the Commission's decision, insofar as it related to the refusal part of the decision was quashed by the courts on the 7th April 2025. That element has been remitted back to the Commission for reconsideration in accordance with law. This reactivated case, Ref. no. ACP-322939-25, relates only to the refusal part. The grant element of that decision (ABP-315439-22) was not subject to Judicial Review and remains valid.

- 1.1.6. The High Court Order states that the matter shall be remitted to the commission to be reconsidered in accordance with law.
- 1.1.7. Submissions or Observations on the refusal part of the Commission's decision were invited from all participants to the Appeal under Section 131 of the Planning and Development Act, 2000 (as amended). The First Party (Applicant) and the Third Party lodged submissions on 6th and 7th of August 2025 respectively. The Local Authority did not submit a response to the invitation letter issued on 18th July 2025.

2.0 Site Location and Description (Updated from ABP-315439-22)

- 2.1. The subject site is located at the intersection of the Malahide Road (R107 Regional Road) and the Greencastle Road on the site of the former Tayto Factory in Coolock, Dublin 17. The site, which has a stated site area of 1.34 hectares (13,400 sqm) has a rectangular shape and is estimated to be located c. 6.5 km to the northeast of the centre of Dublin City.
- 2.2. The site comprises of an existing single storey light industrial/ factory type structure which has a stated floor area of 4,497 sqm and is the subject of current building works for the provision of a Funeral Home. The surrounding lands to the immediate northwest, north and northeast are all in general light industrial use. The nearest residential property, at its closest point, is estimated to be within c. 86 metres to the northeast of the front boundary of the subject site.
 - 2.2.1. It should be noted that since the decision of An Bord Pleanála (Now An Coimisiún Pleanála) was issued under Appeal Ref. no. ABP-315439-22 on 8th February 2024, that planning permission has been subsequently granted to a Housing Association for the construction of 26 no. Apartments on a site located c. 86 metres to the northeast of the site frontage along Malahide Road, as Local Authority Planning Reg. Ref. No. 4278/24 (Appeal Ref. No. ABP-322450-25) refers. The proposed development description, as set out in the public notices, refers to the said 26 no. Apartments, as 'Housing for Older people' 1 bedroom apartment units.

3.0 Scope of Remittal Case

3.1.1. By order of the High Court, the Commission's decision, insofar as it related to the refusal part of the decision was quashed by the courts on the 7th April 2025. That element has been remitted back to the Commission for reconsideration in accordance with law. This reactivated case, Ref. no. ACP-322939-25, only relates to the refusal part. In summary, as remitted to the Commission relates to the following:

- A proposed Electric Cremator Building to the rear (north) of the existing building comprising a steel clad structure which measures 14.9 metres in length, 4.8 metres in width and 5.4 metres in height. The proposed stack height measures 7.45 metres in total.

4.0 Planning History (Updated from ABP-315439-22)

4.1. Planning History on the subject Appeal site

- **ABP Case Ref. No. VV29N.313456:** Applicant: T. Stafford and Sons, Unlimited Company. VACANT SITES LEVY APPEAL. An Bord Pleanála (now An Coimisiún Pleanála) issued a decision in **December 2023** to CANCEL the entry on the Vacant Sites Register.
- **Local Authority Planning Reg. Ref. no. 3462/19:** Applicant: T. Stafford and Sons Ltd. Permission for alterations to a previously approved development Reg. Ref. 4194/15 including change of use of the northern warehouse (881.2 sqm) from a light industrial use to motor sales and service outlet and associated site works. Permission was **GRANTED** on 14/10/2019 subject to 17 no. conditions.
- **Local Authority Planning Reg. Ref. No. 4194/15/ X1:** Applicant: Jonathan Stafford. **EXTENSION OF DURATION (EOD).** EOD was **GRANTED** on 03/05/2022. The Managers Order states, inter alia, that '*..the appropriate period be extended until 9th March 2024.*'
- **Local Authority Planning Reg. Ref. No. 4194/15:** Applicant: T. Stafford & Sons Limited. Permission for the continuation of the light industrial use of the site comprising a central operating depot and head office facility (Funeral

Home). Permission was **GRANTED** on 31/03/2016 subject to 13 no. conditions.

4.2. Planning History in the general vicinity of the subject Appeal site

Along site frontage on Malahide Road

- **ABP-313182-22:** Bus Connects - Clongriffin to City Centre Core Bus Corridor Scheme. Approved with conditions on 8th January 2024.

Adjacent site to the immediate Northeast

- **ABP-302155-18 (Local Authority Planning Reg. Ref. No. 2921/18):**
Permission to Demolish existing warehouse structures and construct a mixed use development of apartments, aparthotel, hotel, office/incubator units, retail unit and crèche. Permission was REFUSED in January 2019 for 3 no. reasons, as follows:

1. *Having regard to the location of the site within an area zoned Z6 in the Dublin City Development Plan 2016 – 2022, where the objective is to provide for the creation and protection of enterprise and facilitate opportunities for employment, it is considered that the proportion and quantum of residential development proposed as part of the mixed used development envisaged in this application would not be sufficiently subsidiary to employment generation uses and would, therefore, contravene materially a development objective indicated in the Development Plan for the zoning of land for the use solely or primarily of particular areas for the purpose of employment/enterprise, and would conflict with the objective to develop the area as an employment centre in accordance with the strategic direction set down in section 14.8.6 of the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
2. *By reason of the close proximity of the development to adjoining third party sites, and notwithstanding the minor amendment to this proximity as submitted with the appeal, it is considered that the proposed development would unduly diminish neighbouring*

development potential and thus the consolidated and comprehensive development of the area. The proposed development would, therefore, be contrary to the land use zoning objective for the site and adjoining area, and would be contrary to the proper planning and sustainable development of the area.

3. *It is considered that the outlook for those apartments which overlook the surrounding dated industrial landscape would seriously injure the residential amenity of future occupants of such apartment units. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

Site located to the immediate Northwest

- **Local Authority Planning Reg. Ref. No. 0084/01:** Display Contracts Limited. Extensions and alterations to existing light industrial, free standing signage, additional car parking and associated siteworks. Permission was GRANTED in April 2001 subject to 5 no. conditions.

Site located c. 32 metres to the North

- **Local Authority Planning Reg. Ref. No. 3048/18:** FBT Gym Limited. RETENTION; 1) The Change of use from light industrial use to a gym. 2) The provision of advertising images inserted into window openings on the front facade of the building and the erection of advertising type signage depicting 'FBT Gym' to the front facade of the building. Permission was GRANTED in August 2018 subject to 9 no. conditions.

Site located c. 86 metres to the northeast along Malahide Road frontage

- **Local Authority Planning Reg. Ref. No. 4278/24 (Appeal Ref. No. ABP-322450-25):** Focus Housing Association CLG. Demolition of existing structures and construction of 26 apartments (32 no. applies for). Permission was GRANTED in September 2025 subject to 20 no. conditions.
- **Local Authority Planning Reg. Ref. No. 5113/22 (Appeal Ref. No. ABP-315398-22):** Melvin Properties Limited & Feltrim Properties Limited. Widening of access at 5 and 6 Malahide Road. Permission was GRANTED in January 2024 subject to 5 no. standard conditions.

- **Local Authority Planning Reg. Ref. No. 4153/22 (Appeal Ref. No. ABP-314445-22):** Melvin Properties Limited & Feltrim Properties Limited. The proposed development will consist of the demolition of 2 single storey existing bungalow dwellings and the construction of an apartment building comprising 47 1 bed 'Housing for Older People' apartment units. Permission was REFUSED in January 2024 for 3 no reasons relating to i) proximity to boundaries, ii) the quantum of one bedroom units in contravention of SPPR 1 and SPPR2 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (December 2022) and iii) a poor level of Amenity for future occupants in terms of Overshadowing, Poor Outlook, diminished Passive Surveillance.
- **Local Authority Planning Reg. Ref. No. 3753/19:** Jackie & Andrew Brennan. Permission for demolition of existing 2 no. houses and the construction of 8 no. semi-detached and 1 no. detached two/three storey houses with dormer dwelling. Permission was REFUSED in October 2019 for 2 reasons relating to i) the development of residential uses exclusively would not provide employment generation uses and would, therefore, contravene materially a development objective indicated in the Development Plan for the zoning of land for the use solely or primarily of particular areas for the purpose of employment/enterprise (Z6), and would conflict with the objective to develop the area as an employment centre in accordance with the strategic direction set down in Section 14.8.6 of the Development Plan and ii) significant breach of building line and resultant impact on the residential amenities of future residents.

Site Located c. 26 metres to the Northeast

- **Local Authority Planning Reg. Ref. No. WEB2361/24:** Damien and Eamonn Manning. Subdivision of an existing single storey light industrial unit into 4 no. separate industrial units retailing light industrial use office use including office space within each unit. Permission was GRANTED in March 2025 subject to 7 no. conditions.

5.0 Policy Context

- **Dublin City Development Plan, 2022 to 2028 (the Development Plan)**

5.1. Development Plan

- 5.1.1. The Appeal site is zoned Z10 – Inner Suburban and Inner City Sustainable Mixed Use in the Dublin City Council Development Plan, 2022 to 2028. The relevant zoning objective is *‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses.’* The lands immediately adjoining the Appeal site to the northwest, north and northeast, are also zoned Z10 and form a combined area estimated to measure in the region of 4.96 hectares. This is the same Development Plan (Dublin City Council Development Plan, 2022 to 2028) which was in force at the time of the Commissions’ decision.
- 5.1.2. Chapter 5 of the Development Plan relates to Quality Housing and Sustainable Neighbourhoods. Policy QHSN57 which relates to Burial Grounds, includes reference to crematoria and states:

‘Policy QHSN57

Burial Grounds

To facilitate the development of new or extended burial grounds, including green cemeteries, eco-burial grounds, crematoria, and columbarium walls having consideration for the burial preferences of multi-faith and non-religious communities, at suitable locations in the city, subject to appropriate safeguards with regard to minimising environmental impacts.’

- 5.1.3. Chapter 14 of the Development Plan relates to Land Use Zoning. Section 14.1 provides an Introduction where, with specific reference to Z10 zoned lands, the following is stated:
- *Changes to the Z10 (Inner Suburban and Inner City Sustainable Mixed-Uses) zoning objective include the application of a new requirement that a masterplan be prepared in respect of the development of Z10 lands in certain locations together with those over 0.5ha in size.*

5.1.4. Section 14.2 of Chapter 14 of the Plan relates to Strategic Approach and provides the following 6 no. principles

- *To ensure that land-use zoning across the city spatially facilitates the aims of the core strategy and the objective to develop a compact, connected, low carbon, and climatically resilient city.*
- *To ensure that land is appropriately zoned in order to accommodate the expected growth needs of Dublin City within the lifetime of the plan and to ensure the protection of community and social infrastructure, and critical ecosystems services, through the application of appropriate land-use zoning designations in order to provide adequate facilities and amenities to meet the growing needs of the city.*
- *To provide for balanced and sustainable development by promoting, in particular, a mixed-use pattern of development with a move away from more traditional forms of single mono-use zoning.*
- *To ensure that the most efficient use is being made of the city's land in line with the principles of the 15-minute city, and that the redevelopment of under-utilised and brownfield land is promoted in order to consolidate and add vitality to existing centres.*
- *To promote the intensification of development adjacent and close to public transport nodes and corridors in order to minimise trip generation and distribution and to promote sustainable compact urban form.*
- *To ensure that the city's zoned enterprise and employment lands are integrated with key supporting infrastructure to provide for more intensive forms of employment.*

5.1.5. Section 14.3.1 of Chapter 14 explains the difference between Permissible and Non-Permissible Uses. It is stated that *'there will be a presumption against uses not listed under the permissible or open for consideration categories in zones Z1, Z2, Z6, Z8, Z9, Z11, Z12 and Z15. Other uses will be dealt with in accordance with the overall policies and objectives in this plan.'*

5.1.6. Section 14.5 of Chapter 14 relates to Non-Conforming Uses and states the following:

- *‘Throughout the Dublin City Council area there are uses that do not conform to the zoning objective for their area. All such uses, where legally established (the appointed day being 1 October 1964) or where in existence longer than 7 years, shall not be subject to proceedings under the Planning and Development Act 2000 (as amended) in respect of the continuing use. When extensions to, or improvements of, premises accommodating such uses are proposed, each shall be considered on their merits, and permission may be granted where the proposed development does not adversely affect the amenities of premises in the vicinity and does not prejudice the proper planning and sustainable development of the area.’*

5.1.7. Section 14.6 of Chapter 14 relates to Transitional Zone Areas and includes the following guidance:

- *The land-use zoning objectives and control standards show the boundaries between zones. While zoning objectives and development management standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals, and to landscaping and screening proposals, in order to protect the amenities of residential properties (see also Appendix 3: Achieving Sustainable Compact Growth Policy for Density and Building Height in the City, Chapter 4: Shape and Structure of the City, and Chapter 15: Development Standards for guiding principles regarding criteria such as height, density, urban design).*

5.1.8. Section 14.7.10 of the Plan relates to Inner Suburban and Inner City Sustainable Mixed Uses – Zone Z10. The Land Use Zoning Objective for Z10 lands is: *‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses.’* The following guidance is provided:

- *The purpose of this zoning is to promote mixed-use in order to deliver sustainable patterns of development in line with the principles of the 15-minute city. The concept of mixed-use will be central to the development or redevelopment of these sites and mono uses, either all residential or all employment/office use, shall not generally be permitted.*
- *In order to ensure that a mixed-use philosophy is adhered to on Z10 zoned lands, the focus will be on delivering a mix of residential and commercial uses. There will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/employment). For very small sites, typically less than 0.5ha, flexibility on mix requirement may be considered on a case-by-case basis, where it can be demonstrated that the proposal would not result in an undue concentration of one particular land-use on the Z10 landholding as a whole.*
- *The primary uses supported in this zone are residential, office and retail, with ancillary uses also facilitated where they deliver on the overall zoning objective.*
- *There will be a requirement that for any significant scheme (on Z10 zoned lands greater than 0.5ha in size) seeking to increase densities and/or height, a masterplan is prepared (see also Appendix 3: Achieving Sustainable Compact Growth). The requirement to prepare a masterplan in respect of future development will also specifically apply to Z10 zoned lands at Malahide Road, Harmonstown Road, Goldenbridge Industrial Estate, 110-114 Cork Street, Glenview Industrial Estate and Brickfield House/ Sunshine Estate.*

5.1.9. A Funeral Home is listed as a use which is Open for Consideration on lands zoned Z10 Inner Suburban and Inner City Sustainable Mixed Uses.

5.1.10. A Cremator or Crematorium is a separate use to a Funeral Home and is not listed as a use which is either Permitted in Principle or Open for Consideration on lands zoned Z10 Inner Suburban and Inner City Sustainable Mixed Uses. A 'Crematorium' use is not identified as a use which is 'Permitted in Principle' on any land use zoning designation in the city. A 'Crematorium' use is however, 'Open for Consideration', on the following Land Use Zoning Designations:

- Z6 (Enterprise and Employment),
- Z7 (Employment (Heavy)),
- Z9 (Amenity/ Open Space Lands/ Green Network),
- Z12 (Institutional Land (Further Development Potential)),
- Z15 (Community & Social Infrastructure).

5.2. UK Guidance

5.2.1. There are no specific guidelines in Ireland with regard to the planning and development of Crematoria. In the absence of Irish National Guidance, I have consulted UK guidance. There are 3 no. UK guidance documents, as follows:

- *The Siting and Planning of Crematoria, (Department of the Environment) 1978, Updated in 2025*
- *Statutory Guidance for Crematoria (Process Guidance Note 5/2 (12) (September 2012)), published by UK Department for Environment, Food and Rural Affairs (Defra)*
- *Federation of Burial and Cremation Authorities (FBCA) document 'Recommendations on the Establishment of Crematoria' (January 2019)*

5.2.2. Each of the above Guidance documents are discussed in turn below.

- *The Siting and Planning of Crematoria, (Department of the Environment) 1978, Updated in 2025*

5.2.3. This memorandum provides a total of 6 no. main principles which should be observed, as follows:

- a) That the site is well suited for the building, and is accessible by public transport, and, normally, that all main services are available;*
- b) that the crematorium is so sited that its use does not have any material effect on the immediate neighbourhood;*
- c) that the layout of the site provides for the easy movement of vehicles to and from the building, and adequate parking space;*
- d) that the building should be so planned as to allow convenient circulation;*

- e) *that proper amenities are provided for those attending or working at the crematorium;*
- f) *that the cremation room and its ancillary rooms and spaces comply with good practices and permit cremation to be carried out in a reverent and dignified manner.*

5.2.4. The memorandum provides further guidance in relation to the Site, the Building, Conversions and Costs.

5.2.5. In relation to the Site, the guidance refers, inter alia, to an appropriate setting of adequate size and space and the need to consult with the Local Authority at the outset. An ideal site is indicated to be one which is a well wooded piece of ground with natural undulations and good views with easy access by public transport and by private car. The existing mature grounds of derelict country houses has been found by some Authorities to represent a suitable and attractive site. The guidance notes that modern cremators, which are efficiently operated, should not cause any nuisance or inconvenience to houses in the vicinity. In order to allow for any emission of fumes, the direction of the prevailing wind should be taken into account in the selection of the site.

5.2.6. The guidance then goes on to discuss the availability of relevant services (water, drainage, electricity and gas), traffic safety and circulation, car parking size and car parking layout.

5.2.7. In terms of layout, the guidance proceeds to state that a small garden, closely adjoining the building is usually provided as an enclosed retreat for quiet thought and contemplation. As part of the grounds, the area for the disposal of ashes, by strewing or by burial, should form a pleasantly treated part of the grounds. Landscape Architects should be retained for the design of the grounds and garden; new planting should be the subject of an early plan from the very beginning. There is an emphasis placed upon the importance of quick growing trees and shrubs planted at once, with a long-term planting scheme for forest trees for the ultimate screening and maturing of the site.

5.2.8. The Guidance provided in relation to the Crematorium Building itself notes, as per the Crematorium Act, 1902 (Section 5) that *'no crematorium shall be constructed nearer to any dwelling house than 200 yards (182.880m)*, except with the consent in*

writing of the owner, lessee and occupier of such house, nor within 50 yards (45.720m) of any public highway, nor in the consecrated part of a burial ground.'

- 5.2.9. The Guidance considers that Crematoria have as much claim to special treatment as any public building, secular or religious. It is recommended that the building be designed by an Architect with *'care and consideration for the dignity and appropriateness of the building.'* The guidance provides further design guidance in relation to a Porte Cochère (a covered setting-down space at the entrance to the chapel), Doorways and Gangways, the Entrance Hall suite, Waiting Room, the Vestry, Chapel, the Crematory, Ancillary Space, Chapel of Rest and Service Yard. Additional guidance is provided in relation to the design and layout of a Superintendent's House and Office and the Display of Flowers.
- 5.2.10. The following is stated in paragraph 54 of the Guidance in relation to Conversions: *'It is sometimes proposed that a cemetery chapel should be converted for use as a crematorium. Although not by any means impossible - there have been several successful conversions - there may be inherent disadvantages in existing buildings. Developers should satisfy themselves that the basic standards recommended above can be achieved.'*
- 5.2.11. The final paragraph of the guidance, no. 55, relates to Costs.
- 5.2.12. It should be noted that paragraph 18 of the original Guidance document from 1978 which relates to the definition of Crematorium as per Section 2 of the Uk Cremation Act, 1952, is indicated to 'no longer be correct'. Reference is made to a ruling from 2025 namely Wathen-Fayed (Appellant) v Secretary of State for Housing, Communities and Local Government (Respondents) – UK Supreme Court. I note from the findings of that said case that the definition of a 'Crematorium' now means *'a building fitted with appliances for the purposes of burning human remains'*. It is further stated in the said case that *'it follows that the distances specified in Section 5 of the Act¹ are to be measured from the building which houses the crematory.'*

¹ Cremation Act, 1902 (UK)

- Statutory Guidance for Crematoria (Process Guidance Note 5/2 (12) (September 2012)), published by UK Department for Environment, Food and Rural Affairs (Defra).

5.2.13. These national guidelines set out more technical and prescriptive requirements in respect of the activities related to the cremation, the abatement plant required to reduce air pollutions, the emission limits and monitoring and the various control techniques in reducing emissions.

- Federation of Burial and Cremation Authorities (FBCA) document 'Recommendations on the Establishment of Crematoria' (January 2019)

5.2.14. This brief Guidance document is prepared by the Federation of Burial and Cremation Authorities (FBCA) and addresses issues including the Siting of Crematoria, Buildings, Ancillary Accommodation and Methods of Disposal.

5.2.15. The Guidelines state that *'ideal sites are rarely to be located in urban areas'*. The suitability of the setting is seen as being more important than a location close to established population centres. The Guidelines state that *'often, this will involve the consideration of sites within the Green Belt, which is the subject of restrictive planning controls.'* The sensitivity of Green Belt sites is also discussed where there is a general presumption against inappropriate development, *'except in very special circumstances.'*

5.2.16. In relation to the separation distance of 200 yards the Guidance notes that *'in the case of crematoria established in Greater London subject to London County Council (General Powers) Act 1935 Section 64, and 1971 Section 7, the 200 yards limit from any dwelling house is reduced to 100 yards.'*

5.2.17. It is noted in the Guidance that although the reuse of previously developed lands complies with UK Government policy, as set in their National Planning Policy Framework (NPPF), that previously developed land can prove to be unsuitable for a proposed Crematorium owing to potential land contamination or the presence of residential property within 200 yards.

5.2.18. Under the heading of Site Access, the guidance notes that: *'careful consideration should be given to the siting or subsequent development of crematorium facilities in*

close proximity to any schools, factories, trading estates, sports grounds or other facility which may be deemed incompatible within the vicinity of a crematorium.'

5.3. Natural Heritage Designations

- 5.3.1. The site is not located within or adjacent to a Natura 2000 site. The nearest Natura sites are the North Dublin Bay SAC (000206), and the North Bull Island SPA (004006), which are located some 2.8km to the southeast and are separated from the subject site. The Santry River, which is connected to the Natura 2000 sites, is, at its closest point, located approx. 34m southwest of the site.

5.4. EIA Screening

- 5.4.1. I refer the EIA Screening Section of my previous Report attached to Appeal file ref. no. ABP-315439-22, wherein it is concluded that an EIA is not required. The same conclusion applies in this case.

5.5. AA Screening

- 5.5.1. I refer the AA Screening Section of my previous Report attached to Appeal file ref. no. ABP-315439-22, wherein it is concluded that having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site. The same conclusion applies in this case.

6.0 Observations to Remittal Case

6.1. Observations to Remittal Case

- 6.1.1. 2 no. Observation Submissions were received from the following:
- T. Stafford and Sons Unlimited Company (First Party/ Applicant)
 - Mannings Bakery Ltd. (Third Party to original Appeal, ref. no. ABP-315439-22)
- 6.1.2. The main issues raised in the Observation Submission received from T. Stafford and Sons Unlimited Company can be summarised as follows:

- Original Appeal Response:
 - The Applicant states the original appeal stands and that there is no evidence for any foreseeable impacts on the amenity of surrounding residences or impact on the Appellants premises.
 - The Applicant submits the proposed development is compliant with the Dublin City Development Plan as accepted by Dublin City Council and is in accordance with the proper planning and sustainable development of the area.
- Impact on Appellants Existing Business
 - The Appellants Ground of Appeal regarding impacts on their business is not supported by any factual basis, evidence, data or expert report of any kind. The concerns of the Appellant are misconceived. The Appellants assessment is not supported by an independent expert but considered the reports submitted to be robust aside from monitoring and maintenance.
 - There will be no impact to the immediate surroundings and less at remote premises as no odours or discernible matter will be emitted into the air from the cremator. The Local Authority had sufficient information upon which to make a decision to grant planning permission and the Local Authority Case Officer did not foresee any adverse impacts on the Appellants Property.
 - The cremator structure will be located over 175 metres from the front of the Appellants (Mannings Bakery) property and an additional 200 metres from the food preparation areas. No emissions or odours will impact the Appellants business or local residential amenities.
 - A range of uses, including a coffee shop have been granted under planning reg. ref. no. 3464/19. The Applicant is satisfied there will be no undue impacts on same.
 - The Applicants submits that sufficient data has been presented which definitively demonstrates the proposals will not result in adverse

impacts on surrounding businesses including those nearby and further away.

- Maintenance and Ongoing Monitoring
 - The Appellant seeks more onerous conditions in relation to Maintenance and ongoing Monitoring. The Applicant submits that ongoing maintenance of the cremator and flues is also an issue for them but that there is no reason to reword Condition no. 5. The written agreement from the Environmental Health Section Air Quality Monitoring and Noise control Unit of the Local Authority is required, prior to the commencement of development. The Applicant submits that the said condition no. 5 includes a number of specific agreement requirements.
 - The Applicant submits that effective monitoring will occur and that condition no. 5 is ample and there is no requirement to amend same.
- Compliance with Dublin City Development Plan, 2022 to 2028
 - The Applicant submits that the proposed development complies with the Dublin City Development Plan, 2022 to 2028. Under the current Development Plan (2022 to 2028), the subject site is zoned Z10 – Inner Suburban and Inner City Sustainable Mixed-Use, the zoning objective for which is *‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses’* where the stated purpose is *‘to promote mixed-use in order to deliver sustainable patterns of development in line with the principles of the 15-minute city. The concept of mixed-use will be central to the development or redevelopment of these sites and mono uses, either all residential or all employment/office use, shall not generally be permitted.’*
 - The Applicant refers to Case Law. In the first referenced case (Waterford County Council v Centz Retail Holdings Ltd. [2020] IEHC 634) the Applicant quotes from the Judges specific remarks in relation to the use of zoning matrices used to refer to the likely outcome of a proposal for planning permission made in respect of any particular zoning objective. In short, the quoted extract notes that in order to

assist readers as to the understanding of zoning objectives, most development plans include zoning matrices which include the terms *‘generally permissible’*, *‘open for consideration’* or *‘not permitted’*.

A ‘generally permissible’ use does not mean that it is inevitable that planning permission will be granted nor indeed does it serve to remove the need to apply for permission. Zoning objectives are a guide to the determination of planning applications rather than being self-executing.

- In the second referenced case (Clonres CLG v An Bord Pleanála [2021] IEHC 303) the Applicant similarly quotes from the Judges specific remarks in relation to the non-statutory basis of the use of matrices.
- The Applicant further submits that a use which is *‘Open for Consideration’* is one which can be permitted once the Local Authority is satisfied that it would be compatible with the overall policies and objectives of the zone, would not present undesirable effects on the permitted uses and would otherwise be consistent with the proper planning and sustainable development of the area. The Applicant quotes from uses identified in the Development Plan which are ‘Open for Consideration’ on lands zoned Z10 which includes *‘funeral home.’* The Applicant submits the proposed cremator will be ancillary to the approved funeral home use and is therefore considered to fall within the remit of the permitted use.
- The Applicant submits that should the Commission consider the use of the cremator to constitute a separate class of land use, then the provisions of Section 14.3.1 of the Development Plan applies. The Applicant submits that as the subject appeal site is zoned Z10, that uses which are not listed in the zoning matrix are deemed to be ‘other uses’ and that it is stated in Section 14.3.1 of the Development Plan that *‘other uses will be dealt with in accordance with the overall policies and objectives of this plan.’* The Applicant submits that the presumption against uses not listed under the permissible or open for consideration categories does not apply to zone Z10. The Applicant further submits that even if a use is not listed as permissible or open for consideration,

this only leads to a presumption against such that use and that this is not conclusive of that said use being contrary to the zoning in the development plan. The Applicant submits that presumptions can be rebutted but that this scenario does not arise in the case of Z10 lands. The Applicant submits therefore that there is nothing in the Dublin City Development Plan, 2022 to 2028, including the Z10 zoning of the lands, which should prevent a grant of permission in this case.

- The Applicant submits that a cremator to the rear of an approved funeral home is compliant with development plan policies and objectives and therefore may be approved. The Appellant assertion that the proposed development Materially Contravenes the Development Plan has no basis in fact and is not supported by the proper interpretation of the Development Plan.
- Impact on Residential Amenity
 - The initial decision of the Board (now Commission) was partly based on a finding that the development would *'adversely affect the amenities of premises in the vicinity, including residential amenity.'* No residents objected to the proposed development and the robust scientific data demonstrates there will be no impact on the third party's premises. The Decision of the High Court found that the refusal reasons issued by the Commission did not include adequate reasons for the decision.
 - The Applicant submits that having regard to the separation distances proposed to be observed, there will be no loss of Privacy from Overlooking, Loss of Daylight or Sunlight, Overbearance and Overshadowing, Noise or Disturbance, or impact on the availability of Public and/ or Private Open Space, for any residential properties in the area. The Applicant submits the proposed development does not give rise to traffic congestion, traffic safety hazards, or parking issues for surrounding residents.
 - Finally, in relation to Air Quality and Odour, the Applicant submits the proposed development will not impact Air Quality in the area as demonstrated in the Air Screening Assessment Report. The Applicant

submits this Report was previously deemed by the Inspector and the Commission to have been robust and that its findings and conclusions were not challenged. Odour controls and mitigation measures will be implemented. The prevailing wind comes from the southwest. The nearest residential dwellings to the northeast are over 681 metres from the flue. The Applicant submits there is clear evidence there will be no impact on air quality from the proposed development.

- Applicants' Conclusion
 - The proposed development is appropriate for the subject appeal site where permission has already been granted for a funeral home and represents a zoning consistent amendment.
 - The development is ancillary to the funeral home use and is separated from nearby residential and sensitive receptors. The use will operate in accordance with relevant standards as required by the Local Authority and the EPA.
 - The Appellants concerns are unfounded and have been fully addressed. There is no impact upon the amenity of surrounding residential, industrial or commercial properties by means of odour, noise, traffic or air quality.
 - Having an on-site crematorium will provide a more efficient funeral service to the existing funeral home. At the moment all remains would be transferred from the funeral home to Glasnevin.
 - The decision of Dublin City Council to Grant permission was correct and should be upheld. The proposed development is in accordance with the proper planning and sustainable development of the area. The Commission is trusted to give due regard to the points outlined in support of the proposed development.

6.1.3. The main issues raised in the Observation Submission received from Mannings Bakery Ltd. can be summarised as follows:

- Mannings Bakery

- The location of Mannings Bakery is outlined in red on figure 1.0 relative to the subject application site which is identified by a yellow dot. The nature of Mannings Bakery as a food preparation operation and bread supplier is discussed. Food safety is stated to be a primary concern for the business. The business is stated to be concerned in relation to potential sources of pollution in the form of odours, gases, trace metals and other particulate matter. The nature of surrounding businesses is stated to be retail and trade based which are stated to have no noticeable processes generating harmful emissions, or emissions that could impact on the operation of the bakery.
- Dublin City Council Development Plan, 2022 to 2028 – Z10 Zoning
 - In the new Dublin City Development Plan, part of the Applicants' land and that of Mannings Bakery has been rezoned Z10, as shown in Figure 1.0 of the Submission. The historic zoning was Z6. The area immediately surrounding the application site has experienced a substantial and material change of zoning towards mixed use residential and away from bulky retail, light industrial. The decision of the Local Authority did not account for this as it was made before the new plan came into force. 'Crematorium' is not listed as a use which is 'Permitted in Principle' or 'Open for Consideration' on lands zoned Z10 although it is listed as 'Open for Consideration' in some other zones.
 - The Appellant quotes from the Z10 zoning notes set out in the Development Plan and notes that these sites are expressly identified for a new future direction.
- Planning Reg. Ref. No. 4988/22 (The Application)
 - In the original Appeal the appellant submitted that the original Air Quality Screening Assessment Report (September 2022) and the overall planning file lacked detail as to the ongoing maintenance and monitoring of the filter and flue system required to both clean and disperse the air from the crematorium.
 - Little detail is provided in the planning application in relation to the specifications for the flue or proposed filtering. Conditions 5f to 5n of

the Notification of Decision to Grant permission issued by the Local Authority lack any information in relation to maintenance and monitoring.

- Contradiction between the Verde Report and Condition 5L
 - A contradiction between condition 5L and the air quality assessment was previously pointed out by the Appellant (Mannings Bakery Limited). In particular, the Applicants Air Quality Screening Assessment Report was carried out using parameters which included a stack height of 10 metres (which is 2 metres above the existing buildings eaves).
 - The Applicants Air Quality Screening Assessment Report is not clear as to which eaves it is referring. Condition 5L of the Local Authority Notification of Decision to Grant permission refers to a minimum height above the eaves of 1m. It is not clear which eaves this refers to.
 - The Applicants Air Quality Screening Assessment Report is based on a measurement which is 2 metres above the eaves yet it is unclear as to which eaves this refers. Whereas Condition no. 5L stipulates a minimum of 1 metre. The Appellant submits that a stack height of 1 metre was not assessed in the Applicants Air Quality Screening Assessment Report but could be utilised by the Applicant. The Appellant submits that this issue needs to be clarified if it has not already been in submissions by the applicant.
- Maintenance and Monitoring
 - The issue of on-going maintenance of filtering and flue equipment is not addressed in the planning application plans and particulars. Condition 5L similarly does not refer to same.
 - Monitoring over time goes together with on-going maintenance. The Appellant considers that although the emissions are unlikely to be significant, this is dependent upon ongoing maintenance of equipment and monitoring of the emissions in a manner which is accountable. In the subject case, the Appellant submits that monitoring is a specific and significant undertaking which requires additional equipment

attached to any flue or flues as the example indicated in Figure 2.0 of the Appellants submission.

- ABP Precedent Monitoring Conditions
 - The Appellant refers to a previous An Bord Pleanála (now An Coimisiún Pleanála) decision, appeal ref. no. PL37.242683, where conditions 2 and 3 of same relate to commissioning and monitoring.
 - The Appellant submits that these aforementioned precedent conditions should be adjusted in relation to the timing of the lodgement of the Emissions Monitoring Plan and the life of operational testing.
- Remedy Sought
 - There is a potential contradiction between the stack heights. Clarification should be sought by the Commission from the Applicant or the Local Authority or both.
 - Having regard to the recent material zoning change of the subject appeal site and its surroundings which is considered by the Appellant to be significant in terms of future land use potential, the Appellant quotes from the Development Plan, as follows:
 - *The primary uses supported in this zone are residential, office and retail, with ancillary uses also facilitated where they deliver on the overall zoning objective.*
 - The Appellant recommends that having regard to the above significant change, the Board (now the Commission) should ‘exercise an abundance of caution’.
 - In the event that the Commission is minded to Grant permission, the Appellant submits that, having regard to the material zoning change since the application was first lodged, the Commission should, in the first instance request additional information from the Applicant regarding the full details of all filtering and flue equipment (and other relevant equipment) proposed to be used. In addition, the Appellant considers that a detailed maintenance and monitoring report should also be submitted and that this should be circulated to the Appellant for

comment and review. The Appellant further submits that this information should be sought at this stage, prior to any final decision being made and not as part of post decision compliance, as was the case in the referenced case, appeal ref. no. PL37.242683.

- The Appellant submits that having regard to the character of the area and material change in zoning, they respectfully request that a requirement for an annual environmental with relevant monitoring outputs (lab tested monitoring results) be submitted to the Local Authority each quarter and that this be made available for public inspection. The Appellant submits that this monitoring should be ongoing to ensure the crematorium remains appropriate in an area which has been designated for mixed use development, including residential and office uses.

6.2. Further Responses

- None. The submissions were not recirculated to the parties as it was considered that no new planning issues arose.

7.0 Assessment

7.1. Background

- 7.1.1. The scope of this Addendum Report is focused on the refusal part of the Commission's decision issued on the 8th January 2024 under appeal ref. no. ABP-315439-22.

7.2. Principle of Development

- *Crematorium Use*

- 7.2.1. The electric cremator is proposed to be housed within an existing building located to the rear of the permitted Funeral Home premises. As per the indicative cremator layout shown on the Proposed Ground Floor Plan, Drg. no. 151069/A/103.1, Rev. PL1, the submitted floor plans indicate the proposed equipment to include a double ended electric cremator, heat exchanger, a cremulator, a compressor and filters. I note the following definition of a Crematorium, as set out in Appendix 15: (Land Use

Definitions) of Volume 2 of the Dublin City Council Development Plan, 2022 to 2028, *'Crematorium: A structure housing a furnace for burning human remains to ashes.'* In my opinion, the proposed Cremator, which is proposed to be housed within an existing building located to the rear of the premises, falls within the above definition of a Crematorium. The proposed electric cremator/ crematorium, in my opinion, comprises an industrial type process.

- *Z10 Inner Suburban and Inner City Sustainable Mixed Uses*

7.2.2. The subject appeal site is zoned Z10 Inner Suburban and Inner City Sustainable Mixed Uses in the Dublin City Council Development Plan, 2022 to 2028, (the Development Plan). Chapter 14 of the Development Plan relates to Land Use Zoning. Section 14.3 relates to Permissible, Non-Permissible Uses and Unzoned Lands. I note it is stated in Section 14.3.1 of Chapter 14 of the Development Plan that *'there will be a presumption against uses not listed under the permissible or open for consideration categories in zones Z1, Z2, Z6, Z8, Z9, Z11, Z12 and Z15. Other uses will be dealt with in accordance with the overall policies and objectives in this plan.'* As the subject appeal site is zoned Z10 and is, as per the above guidance, excluded from the above listed zones, it should therefore be dealt with in accordance with the overall policies and objectives in the overall development plan.

7.2.3. Section 14.5 of Chapter 14 of the Development Plan relates to Non-Conforming Uses. I note a Funeral Home use is a use which is identified as being *'Open for Consideration'* on lands zoned Z10 *'Inner Suburban and Inner City Sustainable Mixed Uses'*. A Funeral Home use is therefore a conforming use within the Z10 zoning. Conversely, a Crematorium use is clearly set out in the development plan to be a separate and distinct use from that of a Funeral Home. This distinguishment is, in my opinion, clearly evidenced by the omission of such a use (Crematorium) from uses which are Permitted in Principle and Open for Consideration on lands zoned Z10 within the current plan as well as the fact that such a use (Crematorium) is identified as a use which is Open for Consideration on lands zoned Z6 (Employment/ Enterprise), Z7 (Employment (Heavy)), Z9 (Amenity/ Open Space Lands/ Green Network), Z12 (Institutional Land (Future Development Potential)) and Z15 (Community and Social Infrastructure). I do not therefore consider the guidance set out in Section 14.5 of the Development Plan relating to non-conforming uses to be applicable in this instance as, in the first case, the subject Funeral Home represents

a conforming use within the current Z10 zoning and is therefore not a non-conforming use and secondly the proposed Crematorium use does not, in my opinion, represent an extension to or improvement of a premises accommodating a non-conforming use, as described in the Development Plan. As noted, and as set out further below, there is a clear distinction made in the Development Plan between a Funeral Home and a Crematorium.

7.2.4. The Applicant submits that the proposed cremator will be ancillary to the approved Funeral Home use and therefore considers it to fall within the remit of the permitted use. The following definition of a Funeral Home is provided in Appendix 15: (Land Use Definitions) of Volume 2 of the Development Plan, Funeral Home: *'Use of a building, or part thereof, for the laying out of remains, the holding of burial services, and the assembling of funerals. A building, or part thereof, used solely for making funeral arrangements is considered to be an office use.'* Having regard to this definition for a Funeral Home and the definition for a Crematorium further above, it is my opinion that both uses are clearly distinct from one another by reason of the nature of activities which typically take place within the said respective uses. This, in my opinion, is further supported by the clear distinctions between both uses as set out in the Development Plan. I note the definition of Ancillary Use as set out in the Glossary attached to Volume 1 (Written Statement) of the development plan, which states: *'Ancillary use: A use which is incidental to the principle use of premises. For example, shops often have floorspace not accessible to customers which is used for storing goods for sale.'* I am satisfied that the proposed Crematorium use, owing to the nature of activities proposed, is distinct and separate from the permitted Funeral Home Use on site and that therefore it cannot, in of itself, be considered to be ancillary to the said permitted Funeral Home use.

7.2.5. Specific guidance in relation to Z10 *'Inner Suburban and Inner City Sustainable Mixed Use'* zoning is set out in Section 14.7.10 of the Development Plan, as summarised above in Section 5.0 of this Report. The stated land use zoning objective for Z10 lands is *'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses.'* The stated purpose of the zoning is to *'promote mixed-use in order to deliver sustainable patterns of development in line with the principles of the 15-minute city.'* The promotion of the concept of mixed-use

and the avoidance of mono uses, either all residential or all employment/office use, *'shall not generally be permitted.'*

- 7.2.6. It is further stated that *'in order to ensure that a mixed-use philosophy is adhered to on Z10 zoned lands, the focus will be on delivering a mix of residential and commercial uses.'* It is also stated that *'there will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/employment).'*
- 7.2.7. I note the adjacent site to the immediate northeast of the subject appeal site, which I estimate to measure c. 1.99 hectares, is vacant at present and that it was previously in use as a factory. In order to satisfy the above stated 30% to 70% range requirement and as the subject appeal site and the remaining lands zoned Z10 at this location are either in current commercial use or soon to be commercial use (funeral home), the balance of the lands on the said adjacent site to the northeast, which I estimate to equate to c. 40% of the overall Z10 lands at this location (4.96 hectares) would, in my opinion, need to be developed, for the most part, for another use or uses, other than commercial use, e.g. residential or office/ employment.
- 7.2.8. Where appropriate separation distances from residential development are observed on the overall Z10 lands, as recommended in the UK Guidance (Siting and Planning of Crematoria, (Department of the Environment) 1978, Updated in 2025, i.e. no dwelling to be within 200 yards (182.88 metres) of a Crematorium) (See Section 7.3 of this Report below), the entirety of the land parcel zoned Z10 at this location, including the lands to the immediate northwest, north and northeast, the subject site itself and the adjacent vacant site to the immediate northeast would be located within 200 yards (182.88 metres) of the proposed Crematorium building. This effectively means that should permission be granted for the proposed Crematorium, as presented, any future residential development proposed within the subject Z10 zone (estimated to measure c. 4.96 hectares in total) would be located within an effective exclusion zone for residential development as per the recommended separation distance (200 yards (182.88 metres) between a Crematorium and a dwelling. A similar issue would arise in a scenario, in my opinion, where the adjacent vacant site to the immediate northeast is proposed for office/ employment use as such a proposal, located proximate to a Crematorium has the potential to impact upon the

existing and future commercial amenities of surrounding Z10 zoned lands. (See Section 7.4 (Surrounding Amenities) of this report below which relates to both existing and future Commercial and Residential Amenities).

- 7.2.9. The above scenarios would not, in my opinion, serve to ensure the stated mixed use philosophy for the lands, the focus of which will be on *'delivering a mix of residential and commercial uses.'*
- 7.2.10. Although the proposed Crematorium is commercial in nature and is located on a site which is in the process of being developed for commercial purposes (Funeral Home), it would, in my opinion, by reason of the anticipated negative impacts on existing and future residential and commercial amenities within the overall Z10 zoned lands at this location, serve to undermine the delivery of the stated mixed use percentage range (30% to 70%).
- 7.2.11. I note that flexibility on the mix requirement may be considered on a case by case basis for very small sites of typically less than 0.5 hectares, where it can be demonstrated that the proposal would not result in an undue concentration of one particular land-use within the overall Z10 zoning. The subject appeal site, which has a stated site area of 13,400 sqm (1.34 hectares), far exceeds the above 0.5 hectare threshold and therefore, in my opinion, the above referenced flexibility does not apply.
- 7.2.12. The proposed Crematorium use is not identified as one of the stated 3 no. primary uses (Residential, Office and Retail) supported in this zone (Z10). Similarly, in my opinion, the proposed Crematorium use is not a use which can be considered ancillary to the said 3 no. primary uses. In addition, having regard to the Z10 zoning objective which is *'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-use'*, it is my opinion that the proposed Crematorium use, by reason of the nature of activities involved, would serve to undermine and jeopardise the delivery of the Z10 zoning objective owing, in particular, to the anticipated impacts the proposals would present on existing and future commercial and residential amenities. As the proposed Crematorium use is not a use which is considered to be ancillary to the primary 3 no. uses supported within this zone (i.e. Residential, Office and Retail) and is not considered to deliver on the overall zoning objective, it is, in my opinion, a use that by default, should not be facilitated on Z10

zoned lands as per the Guidance set out in Section 14.7.10 of the Development Plan.

- 7.2.13. The guidance in relation to Z10 lands as set out in Section 14.7.10 of the Development Plan also include a requirement to provide a masterplan in 2 no. circumstances. The first circumstance reads as follows:

'There will be a requirement that for any significant scheme (on Z10 zoned lands greater than 0.5ha in size) seeking to increase densities and/or height, a masterplan is prepared (see also Appendix 3: Achieving Sustainable Compact Growth).'

- 7.2.14. I note Appendix 3 of the Development Plan is titled '*Achieving Sustainable Compact Growth Policy for Density and Building Height in the City*'. Although the subject proposal is located on a site, the stated area of which (1.34 hectares, 13,400 sqm) exceeds 0.5 hectares in size, the Applicant is not seeking to increase densities or building height. I am therefore satisfied that the stated requirement to provide a masterplan on this basis (i.e. on Z10 zoned lands greater than 0.5 hectares, seeking to increase densities and/ or height), does not apply in the subject case.

- 7.2.15. The final sentence of this paragraph makes specific reference to the Z10 zoned lands at Malahide Road which, in my opinion, includes the subject appeal site and the adjacent lands zoned Z10. The following is stated:

'The requirement to prepare a masterplan in respect of future development will also specifically apply to Z10 zoned lands at Malahide Road, Harmonstown Road, Goldenbridge Industrial Estate, 110-114 Cork Street, Glenview Industrial Estate and Brickfield House/ Sunshine Estate.'

- 7.2.16. As per the above text, there is a requirement to prepare a masterplan in respect of future development which specifically applies to the subject Z10 zoned lands at Malahide Road. As the Commission will note, the Applicant has not provided a Masterplan as part of the planning application documentation, appeal submission or recent submission to this remitted case. It is however accepted that such a requirement to provide a masterplan relates to the comprehensive redevelopment of the overall lands zoned Z10 at this location for mixed uses to include, for example, residential, office and retail.

7.2.17. Having regard to the foregoing, it is my opinion, that subject appeal site does not represent a suitable location for the proposed Crematorium use and, if permitted, would serve to undermine the future orderly development of the area and would serve to impact negatively upon the future development potential of the overall lands. The issue of Material Contravention is discussed further below in Section 7.6 of this Report.

7.2.18. I note Development Plan Policy QHSN57 which reads as follows:

'Policy QHSN57

Burial Grounds

To facilitate the development of new or extended burial grounds, including green cemeteries, eco-burial grounds, crematoria, and columbarium walls having consideration for the burial preferences of multi-faith and non-religious communities, at suitable locations in the city, subject to appropriate safeguards with regard to minimising environmental impacts.'

7.2.19. I have already discussed the issue of site suitability above. The site is not considered to represent a suitable location for a proposed Crematorium use.

7.2.20. In terms of minimising environmental impacts arising as a result of a proposed Crematorium, I refer to Section 7.5 below which relates to Air Quality and concludes that it has not been suitably demonstrated by the Applicant that the proposed development, as presented, will not serve to impact negatively upon surrounding properties in terms of Air Quality.

7.2.21. The issue of Material Contravention is discussed further below in Section 7.6 of this Report.

7.3. UK Guidance

- *Siting and Planning of Crematoria, (Department of the Environment) 1978, Updated in 2025*

7.3.1. The following is stated in paragraph 17 of the above guidance document:

'The Cremation Act 1902 (Section 5) provides that no crematorium shall be constructed nearer to any dwelling house than 200 yards (182.880m), except with the consent in writing of the owner, lessee and occupier of such house,

nor within 50yards (45.720m) of any public highway, nor in the consecrated part of a burial ground.'

- 7.3.2. The nearest residential property, at its closest point along the Malahide Road, is estimated to be within c. 86 metres to the northeast of the subject appeal site. I estimate the said residential property would be a maximum of c. 131 metres to the east of the proposed Crematorium building at the rear of the main building and that the existing dwelling on that same said property would be a maximum of c. 154 metres from the said proposed Crematorium building. Although the consent of the owner, lessee and occupier of this said dwelling is not required, the distance of 200 yards (182.88 metres) is considered to be an indication that the area is expected to have few, if any, residences within this distance.
- 7.3.3. I note the site of the abovementioned dwelling to the east, which faces onto Malahide Road, was the subject of a recent planning application and appeal for residential development where permission has been granted to a Housing Association for 26 no. Apartments, as appeal ref. no. ABP-322450-25 (Local Authority Planning Reg. Ref. No. 4278/24) refer. The 26 no. Apartments are proposed as housing for vulnerable older people and are 5 stories in height with the top floor recessed. I note as per the approved ground floor plan (received by the Local Authority on 19/03/2025) under appeal ref. no. ABP-322450-25 (Drg. Ref. No. L_101, Rev. A) and the approved first floor plan (Drg. no. L_102, Rev. A) that the approved Apartment Block observes a set-back of 11 metres from the rear (northwest) and side (southwest) boundaries at that said site. The approved location of the Apartment building is now therefore closer to the location of the proposed Crematorium than the existing dwelling on that said site. The above said permission, appeal ref. ABP-322450-25 (Local Authority Ref. No. 4278/24) was granted by the Commission on 08th September 2025. I note that although the Applicants' submission to this remitted case was received prior to the decision on ABP-322450-25, there is no reference to a pending decision on ABP-322450-25 or to the application itself (Local Authority Ref. No. 4278/24).
- 7.3.4. I also note there is an existing family hub building, located to the northwest along Greencastle Road, the site of which I estimate to be within c. 110 metres of the subject appeal site with the building itself estimated to be located within c. 164 metres from the proposed Crematorium building. The Applicant makes no reference

to this family hub building or site as part of the list of sensitive receptors, as set out in table 1.0 of the Applicants submission.

- 7.3.5. A majority (i.e. 8 out of 10) of the 10 no. locations of sensitive receptors identified by the Applicant are indicated to be located beyond 200 yards (182.88 metres) of the overall subject appeal site with the balance (2 no.) indicated to be located within 200 yards (182.88 metres). This includes the aforementioned nearest residential site at Malahide Road and a separate backland site accessed from Newtown Cottages road which is indicated to be 179 metres from the proposed flue. There is no reference in the Applicants' assessment to 2 no. other single residential properties located further along Malahide Road to the east of the subject appeal site which, based on my assessment, are also located within 200 yards (182.88 metres) of the proposed Crematorium building.
- 7.3.6. I note the above Guidance includes further recommendations in relation to the overall site and building itself. In particular, the need for sufficient land in order to provide an appropriate setting for the Crematorium, circulation space, car parking and space for the disposal of ashes. The Applicant is silent in relation to proposals for the disposal of ashes and indeed the number of cremations intended to be carried out per annum, all of which, in my opinion, would serve to inform the appropriate site size. The subject site has an overall site area of 1.34 hectares (13,400 sqm). The Crematorium is proposed to operate alongside the permitted funeral home, coffee shop, motor sales and service outlet.
- 7.3.7. In terms of suitable site selection, the guidance recommends consultation with the Local Authority at the outset. In this regard, I note the Applicant indicates in question 22 of the planning application form that pre-planning consultation did not take place with the Local Authority prior to the lodgement of the planning application.
- 7.3.8. The ideal site type and site setting envisaged in the guidance is that of a well wooded piece of ground with natural undulations and good views. The Applicant is proposing to provide a Crematorium to the rear of the permitted Funeral Home in what can be described as a rear service yard/ compound, which is proposed to be secured behind gates and railings. The Crematorium is proposed to be housed in an existing open sided steel framed structure which is proposed to be refurbished in the form of a steel clad structure which measures 14.9 metres in length, by 4.8 metres in

width by 5.4 metres in height. The proposed development site, in my opinion, does not share the same abovementioned ideal site characteristics as envisaged in the guidance. In addition, I note the proposed site layout does not include a small garden closely adjoining the Crematorium building which could be used for an enclosed retreat for quiet thought and contemplation.

7.3.9. I note the recommendations set out in the Guidance in relation to the Building. In my opinion, the proposed internal layout does not adhere to many of the recommendations. I note the specific design recommendations in relation to the Cremator as set out in paragraphs 42 to 48. The design of the cremator does not, in my opinion, adhere to these recommendations particularly in relation to separation distance, height of the crematory, the number of cremators proposed to be installed (i.e. only 1 no. cremator proposed where the guidance recommends at least 2 no. independently operating cremators) and the lack of sufficient space to accommodate a second cremator. In addition, I note there is no apparent Ancillary space adjacent to the crematory.

7.3.10. Having regard to the foregoing and although the Applicant directly refers to the above guidelines in the initial planning report and states that the main principles (see paragraph 4 a) to f) of the subject guidelines) shall be observed, it is my opinion that the proposed development, as presented, does not adhere to the recommendations contained in the guidelines, in particular, the recommended separation distance of 200 yards (182.88 metres) from the nearest dwelling, the optimum site format and location and specific design recommendations.

- Federation of Burial and Cremation Authorities (FBCA) document 'Recommendations on the Establishment of Crematoria' (January 2019)

7.3.11. I note a separate non statutory (UK) industry guidance document, prepared by the Federation of Burial and Cremation Authorities (FBCA) and titled '*Recommendations on the Establishment of Crematoria*' (January 2019) refers to the aforementioned separation distance of 200 yards and notes that '*in the case of crematoria established in Greater London subject to London County Council (General Powers) Act 1935 Section 64, and 1971 Section 7, the 200 yards limit from any dwelling house is reduced to 100 yards.*' The Applicant is seeking to construct a new Crematorium as opposed to an existing Crematorium already being in place. In the

subject case therefore, I consider a separation distance of 200 yards, as referenced above, to be applicable as opposed to a reduced separation distance of 100 yards.

7.3.12. Although this document is an industry guidance document and has therefore no statutory basis within the UK or indeed within the Irish planning context, it nevertheless provides relevant planning considerations, particularly in relation to the Planning and Siting of Crematoria. With specific reference to the Siting of Crematoria, an emphasis is placed upon achieving quietness and seclusion where a woodland or parkland setting, or an area of undulating ground with good natural features and mature trees is seen as enabling the establishment of a good natural setting with minimal horticultural treatment. The setting of the subject appeal site does not, in my opinion, adhere to the above preferred type of setting for a Crematorium, as envisaged in this Guidance. The site is that of a former factory.

7.3.13. It is noted in the Guidance that although the reuse of previously developed lands complies with UK Government policy, as set in their National Planning Policy Framework (NPPF), that previously developed land can prove to be unsuitable for a proposed Crematorium owing to potential land contamination or the presence of residential property within 200 yards. I am unaware of any land contamination on the subject appeal site however, as noted further above, there are existing residential properties located within 200 yards (182.88 metres) of the proposed Crematorium. Therefore, although the proposed development involves the reuse of previously developed lands, it does not, in my opinion, by reason of its proximity to existing residential properties, adhere to this Guidance and does not therefore represent a suitable location for a Crematorium.

7.3.14. The Guidance notes there is a growing recognition that new crematoria will be built in a countryside location close to the urban fringe, that ideal sites are rarely to be located within urban areas and that 'suitability of setting' is of more importance than the location of the site within close proximity of population centres.

7.3.15. As per the guidance, an urban location, such as the subject appeal site, will rarely represent an ideal site. As discussed further above, the setting of the subject appeal site does not, in my opinion, adhere to the preferred type of setting envisaged in the Guidance. The subject appeal site and proposed Crematorium building, in my opinion, by reason of its location and format, lacks the appropriate gravitas and

solemnity associated with a Crematorium, as envisaged in the Guidance. The subject appeal site is within an urban as opposed to a countryside location close to the urban fringe. Notwithstanding the proximity to population centres, the site is also located proximate to existing and planned residential development. Having regard to the constraints presented by the subject appeal site, together with its setting, it is my opinion that notwithstanding its urban location, the site does not represent an ideal site as envisaged in the Guidance particularly since 'suitability of setting' is recognised as being of greater importance than the location of the site proximate to population centres.

- 7.3.16. Under the heading of Site Access, the FBCA guidance notes that: *'careful consideration should be given to the siting or subsequent development of crematorium facilities in close proximity to any schools, factories, trading estates, sports grounds or other facility which may be deemed incompatible within the vicinity of a crematorium.'* I do not consider the subject appeal site to be proximate to any school. I estimate the nearest school to be located within c. 696 metres to the east of the subject appeal site. There is an existing factory on the lands to the southwest of the proposed Crematorium on the opposite southwest side of Greencastle Road. I estimate this said factory site to be within c. 133 metres to the southwest of the proposed Crematorium and within c. 64 metres of the subject appeal site. The term trading estate is not a widely used term within the context of the Irish Planning System. The most comprehensive definition I have found for a Trading Estate is that set out in the online Oxford Reference, as follows:

'an area of land that has been granted planning permission for the development of factories, warehouses, offices, retail outlets, etc. Originating in the late 19th century (e.g. at Trafford Park, Manchester in 1896), they offer land away from residential areas that is well served by transport and services; they also enable premises to be acquired at low rentals. See also science park.'

- 7.3.17. Although the term trading estate is not widely used in the Irish Context, it is my opinion that the surrounding lands further to the north, in particular, Greencastle Parade, in terms of uses, shares many of the characteristics set out in the above definition and as such, in my opinion, can be considered to represent a trading estate. There are no sports grounds located within close proximity to the subject

appeal site although I note the lands located to the southeast of the subject appeal site, on the opposite southeast side of the Malahide Road include Leisure uses in the form of a Cinema and a Bowling Alley, in addition to a Fast Food Restaurant (including Drive Thru). I estimate the proposed Crematorium building to be within c. 133 metres of this said site to the southeast and the subject appeal site to be within c. 32 metres of these same said lands. Having regard to the foregoing, I consider the proposed development to be within the vicinity of uses including a factory, trading estate and other facility (Leisure Uses) which, as per the guidelines, may be deemed incompatible within the vicinity of a Crematorium.

7.3.18. The guidance further advises against the immediate approach to a Crematorium via an existing residential road. Although the approach to the site from the northwest via Greencastle Road is predominantly through a residential area, the immediate approach to the site from the northwest is not although the site of an existing residential family hub is estimated to lie within c. 110 metres to the northwest of the subject appeal site on the opposite northwest side of the Greencastle Parade Road. Similarly, although the approach to the site from the southwest along Malahide Road passes through a predominantly residential area, this road serves as a dual carriageway, as opposed to an access road directly through a residential area.

7.3.19. The site is served by a single point of vehicular access from the adjacent Greencastle Road. This arrangement conflicts with preferred access arrangements set out in the guidance where it is stated that *'where possible, entrance and exit routes should be screened and separated to avoid funeral corteges passing each other.'*

7.3.20. The minimum site size of 2 hectares per estimated 1,000 cremations per annum is recommended. The overall site of the funeral home and proposed crematorium is stated to measure 13,400 sqm (1.34 hectares). The number of anticipated cremations per annum is not specified by the Applicant.

- Statutory Guidance for Crematoria (Process Guidance Note 5/2 (12) (September 2012)), published by UK Department for Environment, Food and Rural Affairs (Defra).

7.3.21. As stated, these above guidelines set out more technical and prescriptive requirements in respect of the activities related to the cremation, the abatement plant

required to reduce air pollutions, the emission limits and monitoring and the various control techniques in reducing emissions. Section 7.5 below relates to Air Quality where the issue of Stack Height and adherence to recommendations set out in this Guidance in terms of the calculation of the appropriate stack height is discussed. In particular, the Applicant has not demonstrated that the proposed Stack Height has been calculated using HMIP Technical Guidance Note (Dispersion) D1.

- *Conclusion in relation to UK Guidance*

- 7.3.22. In conclusion, it is my opinion that the Applicant has not suitably demonstrated that the proposed design, siting and layout of the Crematorium is appropriate in this instance and that it suitably adheres to recommendations set out in the above Guidance documents. In particular, the location of the proposed Crematorium in an urban area, adjacent to an existing Factory, Trading Estate and Leisure Uses and within 200 yards (182.88 metres) of residential properties and planned residential development (26 no. Apartments for vulnerable older persons), does not adhere to said guidance and does not, in my view, represent a suitable location. The site itself, in terms of its proposed location and format, lacks the appropriate gravitas and solemnity associated with a Crematorium, as envisaged in the Guidance.
- 7.3.23. The proposed development, in my opinion, is incompatible with established and planned surrounding uses and is not therefore in accordance with the proper planning and sustainable development of the area.

7.4. Surrounding Amenities

- *Residential Amenity*

- 7.4.1. The relationship of the proposed development site to nearby residential development is discussed further above. The nearest property, at its closest point along the Malahide Road, is estimated to be within c. 86 metres to the northeast of the subject appeal site. I estimate the said residential property would be a maximum of c. 131 metres to the east of the proposed crematorium and that the existing dwelling on the same said property would be a maximum of c. 154 metres from the said proposed crematorium. This is within the recommended 200 yards (182.88 metre) separation distance as set out in the UK Guidance (The Siting and Planning of Crematoria, (Department of the Environment) 1978, Updated in 2025) between a proposed Crematorium and a dwelling. In addition, I note, although not specifically required,

that no consent for the proposed development is provided with the Application and/ or Appeal from the owner, lessee and occupier of this said dwelling house or indeed from the owners, lessees or occupiers of the other 2 no. dwelling houses further to the northeast of same along Malahide Road which are also within 200 yards (182.88 metres) of the proposed Crematorium. These additional 2 no. residential properties are not referenced in the list of Sensitive Residential Receptors set out in Table 1.0 of the Applicants Submission.

- 7.4.2. Planning permission has been granted on the said nearest residential site further to the east for a total of 26 no. Apartments (housing for vulnerable older people) under Appeal Ref. no. ABP-322450-25 (Local Authority Planning Reg. Ref. No. 4278/24). The permitted Apartment Block is located closer to the proposed Crematorium than the existing dwelling on that said site and measures 5 stories in height with the top floor recessed. There is no reference to this application in the Applicants submission. It is accepted however that there was a decision pending on the said Appeal (Ref. No. ABP-322450-25) at the time of the lodgement of the Applicants submission.
- 7.4.3. The site of an existing residential family hub is estimated to be located within c. 110 metres to the northwest of the subject appeal site with the residential family hub building itself estimated to be located within c. 164 metres from the proposed Crematorium building. The Applicant similarly makes no reference to this family hub building or site as part of the list of sensitive receptors, as set out in table 1.0 of the submission. Similarly, no consent for the proposed development is provided with the Application and/ or Appeal from the owner, lessee and occupier of this said residential family hub.
- 7.4.4. The lands located within c. 106 metres to the northwest of the subject appeal site, on the northwest side of Greencastle Parade, which includes the said residential family hub are zoned Z1 (Sustainable Residential Neighbourhoods) in the Dublin City Development Plan, 2022 to 2028. The zoning objective for Z1 (Sustainable Residential Neighbourhoods) lands is *'To protect, provide and improve residential amenities.'*
- 7.4.5. The subject appeal site and the immediately surrounding lands to the northwest, north and northeast are all zoned Z10 *'Inner Suburban and Inner City Sustainable Mixed Use'*, the zoning objective for which is *'to consolidate and facilitate the*

development of inner city and inner suburban sites for mixed use'. The stated primary uses supported in this zone are residential, office and retail with ancillary uses also facilitated where they deliver on the overall zoning objective. In this regard, I do not consider a proposed Crematorium to be a use which can be considered be ancillary to a residential, office or retail use.

7.4.6. I note as per the FBCA guidance document '*Recommendations on the Establishment of Crematoria*' (January 2019), that urban locations are rarely seen as ideal locations and that the suitability of the setting is seen as being more important than a location close to established population centres.

7.4.7. The proposed development, as presented, seeks to introduce a new Crematorium use into an existing urban setting which is proximate to nearby residential receptors. Existing and future residents in the general locality surrounding the subject appeal site would, in my opinion, be faced with a continuous and ongoing perception of residing in proximity to the proposed installation where appropriate separation distances from nearby dwellings are not observed in accordance with UK planning Guidance. This perception, in my opinion, has the potential to impact negatively upon the established residential amenity of such residents. In addition, it is my opinion that the proposed development, if permitted, would serve to impact negatively upon the future development potential of surrounding lands for mixed use development including residential development and would therefore, by default, has the potential to depreciate the value of property in the area.

- *Commercial Amenity*

7.4.8. The subject appeal site is located adjacent and to the south/ southeast of Greencastle Parade. Greencastle Parade is accessed directly from Greencastle Road and is in turn connected to Newtown Avenue and Newtown Park, all of which form part of Malahide Road Industrial Park. I estimate there are approximately 32 no. separate existing businesses within Greencastle Parade which include, for example, the Appellants Bakery Business, a Builders Providers, a Plant Hire Business, 2 no. Flooring Stores, a Fireplace Store, 2 no. Tile Stores, a Glass and Mirror Shop, a Bedding Business, an Upholstery Business, a Shelving Store, a Plastics Fabrication Business, a Motor Vehicle Dealer, a Motor Factors, 2 no. Auto Repair Businesses, 4 no. Gyms, 2 no. Barber Shops, a Coffee Shop, a Fast Food Restaurant, a Butchers,

a Tanning Salon, a Commercial Printers, a Dance and Music Academy, a Tax Consultants and a Website Design Business.

- 7.4.9. In my opinion, the proposed development, as presented, has the potential to impact negatively upon the established amenities of the adjacent Commercial Business Park by reason of a similar continuous and ongoing perception of being located close and, in some cases, almost adjacent to a Crematorium. This, in my opinion, has the potential to impact negatively upon the future orderly development potential of the said adjacent lands, some of which, along with the subject appeal site, are zoned Z10 *'Inner Suburban and Inner City Sustainable Mixed Use'* where the primary uses supported in this zone are Residential, Office and Retail with ancillary uses also facilitated where they deliver on the overall zoning objective. The proposed development, in my opinion, also has the potential to contribute to a depreciation in property values within the said adjacent Commercial Business Park.
- 7.4.10. I note the UK FBCA guidance document *'Recommendations on the Establishment of Crematoria' (January 2019)*, expressly advises that *'careful consideration should be given to the siting or subsequent development of crematorium facilities in close proximity to any schools, factories, trading estates, sports grounds or other facility which may be deemed incompatible within the vicinity of a crematorium.'*
- 7.4.11. In my opinion, the proposed Crematorium by the nature of its use, is incompatible with established surrounding uses including those contained within the existing adjacent trading estate and nearby residential properties. The site is also proximate to an existing factory located on the opposite southwest side of the Greencastle Road.
- 7.4.12. In conclusion, it is my opinion that the proposed development, as presented, has the potential to impact negatively upon the existing and future residential amenities of the area, the existing and future commercial amenities of the area and the future orderly development potential of the area. The proposals also, in my opinion, have the potential to contribute to a depreciation in surrounding property values. In my opinion therefore, the proposed development, as presented, is not in accordance with the proper planning and sustainable development of the area.

7.5. Air Quality

7.5.1. The Appellants operate an existing Bakery/ Food Preparation business in the adjacent trading estate to the north of the subject appeal site where food safety is stated to be a primary concern. The Appellant has raised the issue of Air Quality and in particular, a lack of detail in the original Air Quality Screening Assessment Report (September 2022) and the overall planning file in relation to ongoing Maintenance and Monitoring of the filter and flue system required to both clean and dispense the air from the proposed Crematorium. The Appellant considers Conditions 5f to 5n of the Local Authority Notification of Decision lacks any information in relation to Maintenance and Monitoring and that there is a contradiction between the Applicants Air Quality Screening Assessment Report and Condition 5L relating to stack heights. The Appellant has provided sample precedent Monitoring Conditions and considers that similar conditions should be applied.

- *Air Quality Screening Assessment Report*

7.5.2. I have re-examined the Applicants' Air Quality Assessment Report and while I consider its findings and calculations to be scientifically robust, and although the Report refers to the site being located within a mixed industrial, commercial and residential area, I note it does not specifically refer to an existing residential family hub, the site of which is estimated to be located within c. 109 metres of the northwestern site boundary and the main building of which is estimated to be located within c. 164 metres to the northwest of the location of the proposed Crematorium. I also note that since the Applicants Air Quality Assessment Report was finalised in September 2022, that planning permission has been granted to a Housing Association for 26 no. Apartments on a nearby site (estimated to be located c. 131 metres to the east of the proposed Crematorium), as appeal ref. no. ABP-322450-25 (Local Authority Planning Reg. Ref. No. 4278/24) refers. The Applicants Air Quality Screening Assessment Report, as pointed out by the Appellant, does not include proposals for the ongoing Maintenance and Monitoring of filtering and flue equipment.

- *Stack Height*

7.5.3. I note as per Section 3.4 of the Applicants' Air Quality Assessment Report that a Stack Height of 10 metres (i.e. 2 metres above building height) is referenced. This is

not consistent with the submitted plans where the main flue is shown to have a maximum height of 7.45 metres above existing ground level (See Drg. No. 151069/A/211.1, Rev. PL1 – Existing and Proposed Elevations 2). I estimate the said proposed flue, as per the said submitted drawing, measures a maximum of c. 2.2 metres in height above the proposed Crematorium Building height which measures 5.23 metres. The proposed Crematorium is positioned to the immediate northeast of the side elevation of the existing building. I estimate the overall height of this adjacent building from ground level to parapet height measures c. 6.2 metres in height. The car service area building located c. 18.2 metres to the southeast is estimated to have an overall height of c. 6.8 metres. The proposed stack height, as shown, measures 7.45 metres, which equates to 1.25 metres above the parapet height of the adjacent building (6.2 metres) and 0.645 metres above the car service area building.

- 7.5.4. The UK Planning Guidance (*Siting and Planning of Crematoria, (Department of the Environment) 1978, Updated in 2025*), as per paragraph 48, recommends '*the stack should generally be at least 12 metres high and should not be less than 3 metres higher than the highest part of the associated building to reduce the likelihood of flue gases being caught in down-draughts.*' The proposed stack height at 7.45 metres is 4.55 metres below the above recommended minimum height of 12 metres and is only 1.25 metres above the immediately adjacent building height and not a minimum of 3 metres as recommended.
- 7.5.5. I note the Applicants Air Quality Screening Assessment Report refers to separate UK Guidance (*Statutory Guidance for Crematoria (Process Guidance Note 5/2 (12) (September 2012)), published by UK Department for Environment, Food and Rural Affairs (Defra)*). This guidance is, in my opinion, more up to date and specific and technical in respect of the activities related to cremation, the abatement plant required to reduce air pollutions, the emission limits and monitoring and the various control techniques in reducing emissions. Specific recommendations are provided in Sections 5.39 to 5.42 of that said Guidance in relation to Stack Heights. The guidance notes that stack heights are calculated using HMIP Technical Guidance Note (Dispersion) D1.
- 7.5.6. Section 3.4 of the Applicants' Air Quality Screening Assessment Report, relates to Source Air Emission Data. The applicant has utilised emission limit values

referenced in the above Guidance (Process Guidance Note 5/2 (12)) and refers to separate AERSCREEN models which were run on a theoretical maximum concentration (if emitting at the limit value) of Hydrogen Chloride (0.009 g/s) and Mercury (0.00002 g/s). Other parameters run in the AERSCREEN model include a Stack Height equal to 10 metres (i.e. 2 metres above building height). In addition, as per AERSCREEN Reports attached as Appendix B of the Applicants Air Quality Screening Assessment Report, I note the coordinates provided relate to the centre of the overall site, at a location which I estimate to be c. 35 metres to the south of the proposed stack location and that as per the Building Downwash Parameters, a Building Height of 8.0 metres is indicated which is greater than the building height of the immediately adjacent building at c. 6.2 metres.

- 7.5.7. I can find no reference in the Applicant's Air Quality Report to HMIP Technical Guidance Note (Dispersion) D1 which, as per the Statutory Guidance for Crematoria (Process Guidance Note 5/2 (12) (September 2012)), published by UK Department for Environment, Food and Rural Affairs (Defra), form the basis upon which Stack Heights are calculated. In the absence of any information to the contrary the Applicant appears to have selected a Stack Height of 10 metres (i.e. 2 metres above building height) instead of following the above Guidance and calculating an appropriate Stack Height as per HMIP Technical Guidance Note (Dispersion) D1. In my opinion therefore, the proposed development, as presented, is not compliant with recommendations set out in the UK Statutory Guidance for Crematoria (Process Guidance Note 5/2 (12)), particularly in relation to the calculation of the correct stack height.
- 7.5.8. I note the Appellants concern in relation to a discrepancy between the proposed Stack Height and Condition no. 5 L of the Notification of Decision to Grant permission issued by the Local Authority. Condition 5 L states: *'the ventilation system should be designed to incorporate a stack erected to a minimum height of 1 metre above the eaves of the premises or adjoining premises and be so sited to ensure the emissions will cause no nuisance.'* The parapet height of the adjacent building to the southwest measures c. 6.2 metres and the overall height of the building located c. 18.2 metres to the southeast is estimated to measure c. 6.8 metres in height. The condition refers to adjoining premises but does not specify which adjoining premises it is referring to.

7.5.9. In summary, the proposed Stack Height of 7.45 metres, as shown on the submitted elevation drawing (See Drg. No. 151069/A/211.1, Rev. PL1 – Existing and Proposed Elevations 2) is below (i.e. 2.55 metres below) that of the Stack Height of 10 metres referenced in the Applicants Air Quality Screening Assessment Report and used to present the Applicants findings in relation to Air Quality. In addition, the proposed Stack Height of 7.45 metres is estimated to only be c. 1.3 metres above the parapet height of the immediately adjacent building as opposed to the stated 2 metre clearance above the building, as referenced in the Applicants Air Quality Assessment Report. These inconsistencies in relation to the proposed Stack Height, in my opinion, are then further compounded by the wording of Condition no. 5 L of the Local Authority Notification of Decision to Grant permission. The correct approach, if one is to follow the UK Guidance (*Statutory Guidance for Crematoria (Process Guidance Note 5/2 (12) (September 2012))*), published by UK Department for Environment, Food and Rural Affairs (Defra)), is to follow the HMIP Technical Guidance Note (Dispersion) D1 when seeking to determine the appropriate Stack Height. As the guidance does not appear to have been followed in relation to the calculation of the appropriate stack height, I am not satisfied that the Applicant has suitably demonstrated that the proposed stack height of 7.45 metres as per the drawings or indeed a stack height of 10 metres as per the Air Quality Assessment Report, is appropriate. A higher stack height may be required for example. I am further not satisfied that the stack height stipulated in Condition 5L has been demonstrated to be the correct stack height as per the guidance.

- *Maintenance and Monitoring*

7.5.10. I note the concerns of the Appellant in relation to a stated lack of Maintenance and Monitoring provisions in both the Applicants Air Quality Screening Assessment and as set out in Conditions no. 5f to 5n of the Local Authority Notification of Decision to Grant permission, issued under the previous Z6 (Employment/ Enterprise) zoning. The Appellant has suggested revised conditions in the event of a Grant of permission being issued.

7.5.11. I note the Applicants' Response to the issue of Maintenance and Monitoring, as per the submission received. In short, the Applicant submits there is no requirement to reword Condition no. 5 as the written agreement of the Local Authority is required

prior to the commencement of development and effective monitoring will occur under said Condition no. 5.

7.5.12. I note the 2 no. sample Conditions referenced by the Appellant. I have compared these Conditions to Condition no. 5 of the subject application (Reg. Ref. No. 4988/22), as issued by the Local Authority. The first elements of Condition no. 5 of the subject application (see parts a to e) relate to more general matters and are not specifically concerned with the maintenance and monitoring of the proposed Crematorium. Although the remainder of Condition no. 5 (see parts f to n) relate to Air Pollution measures, emissions, odour, fumes, extraction, ventilation and filtration and more specific conditions, geared towards the specific Crematorium use, such as the 2 no. conditions referenced by the Appellant would, in my opinion, be more appropriate in this instance. Therefore, notwithstanding my overall recommendation to refuse permission, should the Commission be of a mind to Grant permission, Conditions similar to those referenced by the Appellant should be applied in favour of Condition no. 5 of planning reg. ref. no. 4988/22, as issued by the Local Authority in the Notification of Decision to Grant permission.

- *Air Quality Conclusion*

7.5.13. Having regard to the foregoing and, in particular, the assumed parameters provided in the Applicants Air Quality Assessment Report in relation to a Stack Height of 10 meters as opposed to the calculation of the correct Stack Height using HMIP Technical Guidance Note (Dispersion) D1, the discrepancies in relation to the proposed Stack Height shown on the submitted drawings and that assumed in the Report, the surrounding building heights as shown on the submitted plans versus the stated building height of 8 metres as referenced in the Applicants Air Quality Assessment Report, the coordinates provided in the Applicants' Air Quality Assessment Report versus the proposed location for the Crematorium building which is estimated to be located c. 35 metres further to the north, it is my opinion, notwithstanding a previous finding that the Applicants' Report was scientifically robust, that I cannot say with confidence that the proposed Stack Height of 10 metres represents the optimum and correct Stack Height nor indeed, by reason of the ambiguity as to the correct stack height, that the Applicant has suitably demonstrated that the proposed development, as presented, will not serve to impact negatively upon surrounding properties in terms of Air Quality.

7.5.14. Having regard to the circumstances of the subject appeal and to the specific concerns and difficulties outlined above, there is, in my opinion, no requirement for the Commission, as per the Appellants request in the event of a Grant of Permission being issued, to seek revised information from the Applicant in relation to full details of all filtering and flue equipment (and other relevant equipment) proposed to be used or a detailed maintenance and monitoring plan for further circulation and comment and review prior to a final decision being made.

7.6. Reason for Refusal No. 1 - Material Contravention

7.6.1. Recommended Reason for refusal no. 1 of the Inspectors Report attached to Appeal Case Ref. No. ABP-315439-22 dated 8th January 2024, read as follows:

1. *The proposed development, as presented, would materially contravene the “Z10 Inner Suburban and Inner City Sustainable Mixed Use”, zoning of the site, as set out in the Dublin City Development Plan 2022 - 2028, which seeks ‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses’, as it would serve to adversely affect the amenities of premises in the vicinity, including residential amenity, would unduly diminish neighbouring development potential and thus the consolidated and comprehensive development of the area and would therefore, as a result, prejudice the proper planning and sustainable development of the area.*

7.6.2. The Commission will note that the Local Authority Notification of Decision to Grant permission under planning reg. ref. no. 4988/22, which was issued on 1st December 2022, was assessed under the previous Z6 ‘Enterprise and Employment’ zoning from the previous Dublin City Development Plan, 2016 to 2022, which was in force at the time. The current Dublin City Development Plan, 2022 to 2028, came into effect on 14th December 2022 and under same said plan, the zoning of the subject appeal site and that of surrounding sites to the immediate northwest, north and northeast changed from the previous Z6 ‘Enterprise and Employment’ zoning under the previous development plan (2016 to 2022) to its current Z10 ‘Inner Suburban and Inner City Sustainable Mixed Use’ zoning.

7.6.3. The issue of Material Contravention was raised by the Third Party in the initial Appeal Submission, received on 23rd December 2024. The Appellant states that

‘..having regard to the recent, material, change of zoning of the subject lands, wherein a crematorium is not listed as acceptable in principle or open for consideration, the Board must first determine whether the application is a material contravention of the Development Plan. We suggest that it is and as such, we are of the opinion that the Board must apply the tests for material contravention before it can grant permission.’

- *Material Contravention*

- 7.6.4. As noted further above there is a specific development plan policy QHSN57, contained within Chapter 5 of the Development Plan (Quality Housing and Sustainable Neighbourhoods), which deals with Burial Grounds and includes a specific reference to Crematoria. As set out further above, the subject appeal site is not considered to represent a suitable location for a Crematorium. In addition, in terms of minimising environmental impacts arising as a result of the proposed Crematorium, it is considered that the Applicant has not suitably demonstrated that the proposed development, as presented, would be acceptable in terms of Air Quality and associated potential negative impacts on surrounding properties in terms of public health.
- 7.6.5. The said policy QHSN57 (Burial Grounds) is the only policy contained in the Development Plan which directly references Crematoria. The policy lists crematoria alongside other uses including green cemeteries, eco-burial grounds and columbarium walls and, in my opinion, has clearly grouped and classified such uses under a general heading of Burial Grounds. The policy seeks to facilitate such uses at suitable locations in the city. This, in my opinion, infers there are locations within the city which are not suitable such as the subject appeal site, as set out further above. I note, for example, that a burial ground is not identified as a specific use within the uses which are permitted in principle or open for consideration as identified within the various zonings in the development plan. I incidentally note a cemetery is a use which is permitted in principle on lands zoned Z9 (Amenity/Open Space Lands/Green Network) and Z15 (Community and Social Infrastructure) in the Development Plan.
- 7.6.6. The meaning or intent of the policy is, in my opinion, to facilitate the development of new or extended Burial Grounds, including Crematoria, at suitable locations within

the city, subject to environmental safeguards. A converse interpretation of the policy is, in my opinion, that if the location is not deemed to be suitable or if the environmental safeguards are not acceptable, the development of a new or extended Burial Ground, including a Crematorium, will not be facilitated. As this is the case in terms of the proposed location, in particular, it is my opinion that the proposed development, as presented, is contrary to Policy QHSN57 (Burial Grounds).

7.6.7. Section 14.7.10 of the Development Plan relates to Inner Suburban and Inner City Sustainable Mixed Uses – Zone Z10. As noted further above, there is a stated requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/ employment). The proposed development of a Crematorium close to the centre of the overall lands zoned Z10 at this location would, in my opinion, serve to create an effective exclusion zone for residential development where recommended separation distances, as per UK Guidelines (*Siting and Planning of Crematoria, (Department of the Environment) 1978, Updated in 2025*) are to be observed. A similar issue would arise in terms of the potential impact of a Crematorium upon the existing and future commercial amenities of surrounding Z10 zoned lands. Such scenarios, in my opinion, would serve to undermine the delivery of the above stated percentage range (30% to 70%) requirement. In this regard, it is my opinion that this would represent a contravention of this stated development plan requirement as opposed to it being a material contravention of said percentage requirement.

7.6.8. There is a stated specific development plan requirement to prepare a masterplan for the further development of Z10 lands at Malahide Road, i.e.

‘The requirement to prepare a masterplan in respect of future development will also specifically apply to Z10 zoned lands at Malahide Road, Harmonstown Road, Goldenbridge Industrial Estate, 110-114 Cork Street, Glenview Industrial Estate and Brickfield House/ Sunshine Estate.’

7.6.9. The Applicant has not provided a masterplan as part of the planning application documentation, appeal submission or recent submission to this remitted case and as such has not complied with this requirement. It is however accepted that such a requirement to provide a masterplan relates to the comprehensive redevelopment of

the overall lands zoned Z10 at this location for mixed uses to include, for example, residential, office and retail.

7.6.10. Therefore, having regard to

- Policy QHSN57 (Burial Grounds) of the Dublin City Council Development Plan, 2022 to 2028,
- The proposed Crematorium use, which is a distinct and separate use to a Funeral Home and is not considered to be a use which is ancillary to a Funeral Home,
- The proposed Crematorium use which is a use which is Open for Consideration on lands zoned Z6 (Enterprise and Employment), Z7 (Employment (Heavy)), Z9 (Amenity/ Open Space Lands/ Green Network) Z12 (Institutional Land (Further Development Potential)) and Z15 (Community & Social Infrastructure) and is not a use which is either Permitted in Principle or Open for Consideration on lands zoned Z10 (Inner Suburban and Inner City Sustainable Mixed Uses),
- The location of the subject appeal site on lands zoned Z10 (Inner Suburban and Inner City Sustainable Mixed Uses),
- The zoning changes to the subject appeal site and surrounding area which has been changed from its previous Z6 (Enterprise and Employment) zoning on the previous Dublin City Development Plan, 2016 to 2022 to its current Z10 (Inner suburban and Inner City Sustainable Mixed Uses) zoning under the current Dublin City Development Plan, 2022 to 2028,
- The increase in permitted residential development in the area, as planning reg. ref. no. 4278/24 (Appeal Ref. no. ABP-322450-25) refers (26 no. Apartments for vulnerable older persons),
- The intended transition of the subject appeal site together with adjacent lands within the subject Z10 zone from previous Industrial use to Inner Suburban and Inner City Sustainable Mixed Uses,
- The proposed Crematorium use which is not considered to be a use which is compatible with the subject Z10 Inner Suburban and Inner City Sustainable Mixed Uses zoning of the lands,

It is my opinion that the proposed Crematorium use would be incompatible with Z10 Inner Suburban and Inner City Sustainable Mixed Use zoning of the lands and would materially contravene the Z10 zoning objective *‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed use.’*

7.7. Reason for Refusal No. 2 – The proposed Crematorium use is not suited to this urban area and the surrounding land uses are generally unsympathetic to the proposed crematorium use (as per Inspectors Report attached to Appeal Case Ref. No. ABP-315439-22).

7.7.1. Recommended reason for refusal no. 2 of the Inspectors Report attached to Appeal Case Ref. No. ABP-315439-22 dated 8th January 2024, read as follows:

2. *It is considered that the proposed crematorium use is not suited to this urban area and the surrounding land uses are generally unsuitable and unsympathetic for the proposed crematorium use. The proposed development would, therefore, if permitted, be contrary to the proper planning and sustainable development of the area.*

7.7.2. As set out further above, it is my opinion that the proposed Crematorium use is not a use which is suited to this urban area which is zoned Z10 *‘Inner Suburban and Inner City Sustainable Mixed-Uses’* and the stated zoning objective for Z10 zoned lands of which is *‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed use’*.

7.7.3. The location of the subject appeal site and the established nature of surrounding uses, which include an existing commercial business park to the immediate north (Greencastle Parade) which is considered to share characteristics of a trading estate, various existing residential properties within 200 yards (182.88 metres) to the east of the site along Malahide Road, a planned residential development of 26 no. Apartments intended for use by vulnerable older persons also within 200 yards (182.88 metres) of the proposed Crematorium and an existing factory to the southwest, is not, in my opinion, consistent with recommendations as to the appropriate location of a Crematorium, as set out in the above UK planning guidance documents, namely the Siting and Planning of Crematoria, (Department of the Environment) 1978, Updated in 2025 and Federation of Burial and Cremation

Authorities (FBCA) document '*Recommendations on the Establishment of Crematoria*' (January 2019), see Section 7.2 of this Report above.

- 7.7.4. The proposed development would, in my opinion, serve to impact negatively upon established and future commercial and residential amenities, has the potential to undermine the future orderly development potential of the overall Z10 zoned lands at this location as it would be at odds with the stated mixed use philosophy of the lands, the focus of which, it is stated will be on '*delivering a mix of residential and commercial uses*', has the potential to impact negatively upon surrounding property values owing to the nature of the proposed industrial use and would materially contravene the Z10 zoning objective of the development plan, as discussed further above. The location of the proposed development is therefore not, in my opinion, suited to this urban area, where the surrounding land uses are generally inconsistent, incompatible and unsympathetic to the proposed crematorium use. In my opinion therefore, although the issues raised in refusal reason no. 2, as per the Inspectors Report attached to Appeal Ref. No. ABP-315439-22, are still applicable, they are best expressed, together with other relevant considerations, as part of a single reason for refusal, see reason for refusal no. 1 below.

8.0 Recommendation

- 8.1. I recommend that permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to

- Policy QHSN57 (Burial Grounds) of the Dublin City Council Development Plan, 2022 to 2028,
- The proposed Crematorium use, which is a distinct and separate use to a Funeral Home and is not considered to be a use which is ancillary to a Funeral Home,
- The proposed Crematorium use which is a use which is Open for Consideration on lands zoned Z6 (Enterprise and Employment), Z7

(Employment (Heavy)), Z9 (Amenity/ Open Space Lands/ Green Network) Z12 (Institutional Land (Further Development Potential)) and Z15 (Community & Social Infrastructure) and is not a use which is either Permitted in Principle or Open for Consideration on lands zoned Z10 (Inner Suburban and Inner City Sustainable Mixed Uses),

- The location of the subject appeal site on lands zoned Z10 (Inner Suburban and Inner City Sustainable Mixed Uses),
- The zoning changes to the subject appeal site and surrounding area which has been changed from its previous Z6 (Enterprise and Employment) zoning on the previous Dublin City Development Plan, 2016 to 2022 to its current Z10 (Inner suburban and Inner City Sustainable Mixed Uses) zoning under the current Dublin City Development Plan, 2022 to 2028,
- The increase in permitted residential development in the area, as planning reg. ref. no. 4278/24 (Appeal Ref. no. ABP-322450-25) refers (26 no. Apartments for vulnerable older persons),
- The intended transition of the subject appeal site together with adjacent lands within the subject Z10 zone from previous Industrial use to Inner Suburban and Inner City Sustainable Mixed Uses,
- The proposed Crematorium use which is not considered to be a use which is compatible with the subject Z10 Inner Suburban and Inner City Sustainable Mixed Uses zoning of the lands,

9.1.2. The proposed Crematorium use would be incompatible with Z10 Inner Suburban and Inner City Sustainable Mixed Use zoning of the lands and would materially contravene the Z10 zoning objective 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed use.'

9.1.3. I therefore recommend that permission be refused for the following reasons.

1. The proposed Crematorium is a stand alone use in the Dublin City Council Development Plan, 2022 to 2028, as evidenced by Policy QHSN57 (Bural Grounds) where the development of new or extended burial grounds, including crematoria will be facilitated at suitable locations in the city, subject to appropriate safeguards with regard to minimising environmental impacts.

The proposed Crematorium is not considered to be a use which is ancillary to a Funeral Home and is instead a distinct and separate use. The proposed Crematorium use is a use which is Open for Consideration on lands zoned Z6 (Enterprise and Employment), Z7 (Employment (Heavy)), Z9 (Amenity/ Open Space Lands/ Green Network), Z12 (Institutional Land (Further Development Potential)) and Z15 (Community & Social Infrastructure) and is not a use which is either Permitted in Principle or Open for Consideration on lands zoned Z10 (Inner Suburban and Inner City Sustainable Mixed Uses).

The proposed Crematorium is not a use which is considered to be suitable to this urban area, having regard to the emphasis of the land use zoning objective, to create mixed use developments with a significant residential component on sites which were previously zoned for enterprise and employment. It is considered that the proposed development is incompatible with and unsympathetic to established and future surrounding land uses, would serve to adversely affect the amenities of premises in the vicinity, including existing commercial and residential amenities and future residential amenity and would unduly diminish neighbouring development potential and thus the consolidated and comprehensive development of the area.

The proposed development therefore, as presented, would materially contravene the *“Z10 Inner Suburban and Inner City Sustainable Mixed Use”*, zoning objective for the site, as set out in the Dublin City Development Plan 2022 - 2028, which seeks *‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses’*. The proposed development would be contrary to Policy QHSN57 (Burial Grounds) of the Dublin City Development Plan, 2022 to 2028, as the subject appeal site is not considered to represent a suitable location for a Crematorium, given the residential population which the zoning objective provides for. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

2. The Applicants' Air Quality Assessment Report concludes that a proposed stack height of 10 metres would not result in any negative public health impacts for existing surrounding businesses and residential properties. This stated stack height of 10 metres is not consistent with the submitted

elevational drawings which indicate a proposed stack height of 7.45 metres. In addition, the Applicant has not demonstrated that the proposed stack height is appropriate and has been calculated in accordance with HMIP Technical Guidance Note (Dispersion) D1 of the UK Statutory Guidance for Crematoria (Process Guidance Note 5/2 (12) (September 2012)), published by UK Department for Environment, Food and Rural Affairs (Defra). Having regard to the foregoing, I am not satisfied that the Applicant has suitably demonstrated that the proposed development would not present a risk to public health. In this regard, it is therefore considered that the proposed development, as presented, is not in accordance with the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Frank O'Donnell
Planning Inspector

9th April 2026