



An  
Bord  
Pleanála

## Inspector's Report 06D.JD0026

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### Environmental Impact Statement – Direction case

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| <b>Board Reference</b>          | PL06D. JD0026  |
| <b>Project:</b>                 | Proposed new crematorium and associated works at Shanganagh Cemetery, Shankill, County Dublin. |
| <b>Project Proponent:</b>       | Dun Laoghaire Rathdown County Council  |
| <b>Referred By:</b>             | Corbawn Area Residents Association.  |
| <b>Date of Site Inspection:</b> | 6th November 2016  |
| <b>Inspector:</b>               | Hugh Mannion.  |

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## **1.0 Introduction**

- 1.1. I have read the contents of file PL.10.JD0026 and inspected the site on 6<sup>th</sup> November, 2016. The purpose of this report is to advise the Board on whether it should issue a direction to Dun Laoghaire Rathdown County Council that the proposed erection of a crematorium and associated works should be subject to Environmental Impact Assessment (EIA). The request for a direction has been made by Corbawn Area Residents Association care of 45 Corbawn Drive, Shankill, Dublin 18 under Art. 120(3) of the Planning and Development Regulations 2001 (as amended).

## **2.0 Site Location and Description**

- 2.1. The site has a stated area of 4.15ha and comprises an undeveloped part of an overall area comprising Shanganagh cemetery. Shanganagh cemetery is located between the Dublin Road and Dublin/Wexford railway just south of Shankill in south County Dublin. The cemetery is divided into three parts. There is a western part in use as a graveyard accessed through gates and over a paved road off the Dublin Road, a central part comprising car parking and a refuse sorting/recycling facility and undeveloped scrubland the subject of this application and a third (eastern part) adjoining the Dublin/Wexford railway line.
- 2.2. The proposed site is largely undeveloped scrubland and adjoins Shanganagh Park to the west and north. Along the southern boundary is an access road which links the western and eastern parts of the cemetery and provides access for funeral goers between the western and eastern parts of the existing cemetery. Off this road and to the south of the application site are some service buildings. The eastern boundary comprises a hedge adjoining the eastern part of the cemetery. The western boundary along the car park/refuse sorting/recycling area has a security fence and locked gate.

## **3.0 Description of Proposed Development**

- 3.1. The proposed development comprises the erection of two halls for the holding of services, an administration building, a crematorium building, a coffee/flower shop,

car parking, new burial plots, landscaping and associated works all at Shanganagh Cemetery, Shankill, County Dublin.

#### **4.0 Request for Direction and Submitted Documents**

4.1. Corbawn Area Residents Association submitted a request for the Board to utilise its powers under article 120(3)(a) of the Planning and Development Regulations, 2001 (as amended) to direct the local authority to prepare an Environmental Impact Statement in respect of the development of a crematorium and associated works at Shanganagh Cemetery. The following is a summary of the main points raised in the submissions received from Corbawn Area Residents Association:

- The proposed development should be subject to EIA. The proposed development will give rise to traffic impacts on Shankill village. The roads infrastructure in the area is already over -stretched and the proposal in combination with permitted housing and commercial development will exacerbate this. The proposed facility will attract traffic from Dun Laoghaire Rathdown, Wicklow and the wider area. Access from the M11 to Bray is already congested and the planning authority have no plans to up-grade these junctions.
- The facility may give rise emissions to the area which would result from incinerating of the partly mercury based fillings in human teeth. The technology to prevent air pollution is not proven to be reliable.

4.2. By letter dated 6<sup>th</sup> July, 2016 the Board requested that the requester submit the following:

- Details of the class of development in Schedule 5 of the Planning and Development Regulations 2001, as amended, that the development is considered to belong to.
- Statement as to why the proposed development is considered to have significant effects on the environment.

4.3. Corbawn Residents Association responded to the Board's request on the 26<sup>th</sup> July 2016 making the following points;

- There may be no specific reference in the EIA regulations to crematoria.

- The proposed development will negatively impact on traffic movements in the area of Shankill.
- The proposed development may give rise to lead contaminated emission to the area from the incineration of filled human teeth. This is significant because the site is beside Shanganagh Park which is used by walkers, runners, and has a children's playground and football pitches.

4.4. Documents submitted by the project proposer in response to the request for comments are as follows:

4.4.1. Submission from the **Director of Services, Dun Laoghaire Rathdown County Council** makes the following points:

- The proposed crematorium and associated development does not fall within a class in Part 1 of Schedule 5 of the Regulations.
- The regulations at Part 2 (10) (b)(iv) state that "Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.) would require EIA. However, the proposed development is not located within a business district, within a built up area and is substantially below the 10ha or 20ha threshold set out in the regulations.
- It is possible under section 172(1)(b) that a sub-threshold development is required. The EIA directive<sup>1</sup> requires the carrying out of a sub-threshold EIA screening procedure only for projects likely to have significant effects on the environment. Schedule 7 of the regulations sets out three criteria against which sub-threshold developments should be considered; characteristics of the proposed development, location of the proposed development and characteristics of the potential impacts arising from the proposed development.
- The characteristics of the proposed development may be summarised as two halls for memorial services, an administration building, a crematorium

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<sup>1</sup> Directive 2014/52/EU

building and a coffee/flower shop. Associated developments include car parking, a columbarium wall, new burial plots, a meadow, woodland copse and walk, and a pedestrian route connecting Woodbrook LAP to Shanganagh Park. The total site area is 4.15ha and the total area of buildings is 636m<sup>2</sup>.

- The location of the proposed development is not environmentally sensitive. There are no species or habitats of ecological importance on the application site and the proposed development, therefore, has no likely significant impacts on species or habitats of ecological importance. In relation to areas outside the site an AA screening exercise has been carried out which concluded that there is no likelihood of significant effects on any European site. The site is subject to a specific objective in the Dun Laoghaire Rathdown County Development Plan 2016-2022.
- The characterises of the potential impacts may be grouped as construction phase impacts and operational phase. The construction phase will give rise to some noise which may be managed in line with a construction management plan. Operational phase impacts will be traffic and emissions to air.
- The Byrne Environmental Consulting report submitted with the planning authority's observations states that the crematorium facility is computer controlled and preheated to 800 degrees before a coffin/body is inserted. The smoke stack will emit gasses at 6.7m above the ground and is fitted with an abatement system comprising a heat exchanger, dust extraction unit and an activated carbon and calcium oxide filtration system which removes organic compounds, hydrochloric acid (HCl), Hg (mercury and its compounds) and dioxins. Some residual NO<sub>x</sub>, SO<sub>2</sub>, CO, particulate matter, H<sub>2</sub>O, HCl, Hg (mercury and its compounds) may be emitted from the stack.
- The present ambient air quality assessment submitted follows the criteria adopted by the EPA in its most recent published report 'Air Quality in Ireland 2014'. These criteria are levels sulphur dioxide, carbon dioxide, hydrocarbons, PM10<sub>10</sub>, hydrochloric acid, mercury, dioxins and furans. The stack emissions modelling prepared as part of the Part 8 specified development procedure concludes that the emissions from the exhaust stack will be very significantly lower than the air quality limit values specified in the Air Quality Standards

Regulations 2011 (S.I. 180 of 2011). The proposed crematorium is not a licensable activity under the EPA Act 1992, as amended, nor does it require a license under the Air Pollution Act 1987. However, the planning authority will adopt best practice as recommended by the British Department of Environment, Food and Rural Affairs “Statutory Guidance for Crematoria “Process Guidance Note 5/2(12)” in relation continuous monitoring of stack emissions. Monitoring records will be maintained on site for public inspection.

## **5.0 Planning Policy**

5.1. The site is zoned F “to preserve and provide for open space with ancillary active recreational amenities” with an additional overlay “to protect and/or provide for a burial ground” in the other objectives list on map 14 attached to the Dun Laoghaire Rathdown County Development Plan 2016-2022.

A crematorium is “open for consideration” on lands zoned F.

## **6.0 Planning History**

6.1. The local authority (Dun Laoghaire Rathdown County Council) complied with the provisions of Part VIII of the Act in providing consent for the construction of two halls for the holding of services, an administration building, a crematorium building, a coffee/flower shop, car parking, new burial plots landscaping and associated works all at Shanganagh Cemetery, Shankill, County Dublin.

## **7.0 Assessment**

7.1. This assessment will address three points. First, does this request for a direction fulfil the requirements of Article 120(3)(b) in so far as that article requires the person making the request to the Board to indicate the class in Schedule 5 to which the proposed development belongs? Second, does the proposed development fall within a class in Schedule 5? Third, if the proposed development falls within a class in Schedule 5 it is likely to have significant effects on the environment in accordance with schedule 7?

- 7.2. Article 120 of the Planning and Development Regulations 2000, as amended, refers to Sub-threshold EIA. Article 120(3)(b) provides that where a person considers that a proposed development to be carried out by a local authority would be likely to have significant effects on the environment that he or she may apply to the Board for a determination as to whether the development would be likely to have such significant effects on the environment and, therefore, that the local authority should prepare an EIS and carry out an EIA. Article 120(3)(c) requires that a person seeking a determination from the Board under that article “shall indicate the class in schedule 5 within which the development is considered to fall”. The initial submission from Corbawn Area Residents Association did not indicate to which class in Schedule 5 the proposed development was considered to fall. The Board (see letter dated 6<sup>th</sup> July 2016) requested the Corbawn Area Residents Association to indicate the relevant class within Schedule 5 but again (see letter received 26<sup>th</sup> July 2016) the residents’ association did not indicate a class within Schedule 5.
- 7.3. I conclude on this question that it is open to the Board to determine that this application for determination does not fulfil the requirement of article 120 and declare the application to be invalid.
- 7.4. Notwithstanding paragraph 7.3 above and for the sake of completeness I will now consider the other two questions posed at the beginning of this assessment; does the proposed development fall within a class in Schedule 5? And, if the proposed development falls within a class in Schedule 5 it is likely to have significant effects on the environment having regard to the criteria set out in Schedule 7?
- 7.5. Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended sets out classes of development for which an EIS should be prepared and an EIA carried out subject to meeting the threshold within a class. I have reviewed Part II and conclude that the only class of development to which the proposed development may be considered to belong is Class 10 of Part II of Schedule 5.
- 7.6. The planning authority has stated that the proposed development is “below the thresholds for mandatory EIA” (see letter received by the Board 6<sup>th</sup> October 2016). However elsewhere (see especially Clifton Scannell Emerson Associates page 6 of 36) concedes that the proposed development is “an urban form of development” but not in excess of 4ha and on that basis that it does not meet the threshold for EIA. I



consider that the planning authority's submission is unclear in relation to the nature of the proposed development and the thresholds within class 10. I will deal with these points below.

- 7.7. "Class 10 (b)(iv) -Infrastructure Developments: urban development" as set out in Part of Schedule 5 is as follows;

10. Infrastructure projects

*(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.*

(In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

- 7.8. In short Class 10(a)(iv) requires EIA where an urban development would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built up area and 20ha elsewhere.
- 7.9. Urban development is not defined in the Regulations but the advice in the "Interpretation of definitions of certain project categories of Annex I and II of the EIA Directive" published by the European Commission in 2015 is that urban development usually includes shopping centres and car parks but the advice explicitly states that this list is not an exhaustive. I consider that an urban development would, *inter alia*, be one that is characteristic of urban areas and would require significant public infrastructure; for instance a large public water supply, developed road network and surface and foul sewerage. While some of these are available in the present context I would argue that these forms of infrastructure are not necessary for development of a crematorium. A crematorium could be located in a green field site with minimum infrastructure. Turning to the impacts characteristic of urban infrastructure these would include heavy traffic, consumption of large amounts of energy, extensive areas of paved land surface and significant numbers of large buildings. These characteristics are not typical of crematoria.
- 7.10. Having regard to these factors I conclude that a crematorium is not characteristic of urban areas and therefore is not an urban development within the meaning of the Directive or Regulations. The site is not within an area where the land use is retail or commercial and it follows that the proposed development is not within a business

district and I conclude therefore that Class 10 of Part 2 of Schedule 5 does not apply in this case.

- 7.11. Notwithstanding the foregoing and in order to provide for the case where the Board considers that the proposed development is an urban development within the meaning of Class 10 but not meeting the thresholds in the class I will assess the proposed development against the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended and the advice set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development” issued by the Department of the Environment, Heritage and Local Government in August 2003.
- 7.12. These criteria are (a) the characteristics of the proposed development, (b) the location of the proposed development and (c) characteristics of the potential impacts arising from the proposed development.
- 7.13. The first criterion for considering sub-threshold EIA is the characteristics of the proposed development. The proposed development comprises the erection of two halls for the holding of services, an administration building, a crematorium building, a coffee/flower shop, car parking, new burial plots, landscaping and associated works all at Shanganagh Cemetery, Shankill, County Dublin on a site of 4.15ha and with a total floor area of 636m<sup>2</sup>. No element of this development of itself has the capacity to give rise likely significant environmental impacts. In terms of accumulation of impacts, it is necessary to consider the adjoining developments which may be summarised as graveyard, public parkland, undeveloped land and very low density residential development towards the southwest. I do not consider that the characteristics of the proposed development taken with the characterises of the adjoining development are likely to have significant effects on the environment.
- 7.14. In relation to the location of the proposed development it may be noted that the existing land use is car parking with attendant scrubland and some older hard standing areas where some soil has been deposited. The site is not ecologically sensitive. The local authority carried out a preliminary ecological assessment of the proposed development and, separately, an Appropriate Assessment (AA) screening exercise. The AA screening exercise concluded that there is no likelihood of any significant effects on any European Site arising from the proposed development

either alone or in combination with other plans or projects. Having regard to the nature of the site and the material prepared in relation to the Part 8 procedure I conclude that this second criterion for triggering the requirement for a sub-threshold EIA is not met.

7.15. The third criterion which may give rise to the requirement for sub-threshold EIA is the characteristics of the potential impacts arising from the proposed development.

7.16. The applicant for a direction in this case specifies traffic impacts on the road network in the area and emissions from the crematorium stack as likely significant effects arising from the proposed development. The proposed development is located in a relatively underdeveloped area on a site adjacent to a graveyard, recreational areas and a refuse sorting/recycling area. The Dublin Road from which site gains access is a former national route which has now been superseded in traffic loading by the M50. The motorway is accessed via junction 5 to the south west of the site. The local authority makes the case that funeral services are held between 10am and 2pm which is outside the peak traffic times of 7am to 9am and 4.30pm to 7pm and that there is no history of traffic congestion at the R119/R761 (Bray junction roundabout) just south of the site. Having regard to the foregoing, the existing uses in the area, the nature of the proposed use and the carrying capacity, adequate width and satisfactory alignment of the adjoining road network, I do not consider that the proposed development has the capacity to materially impact on the traffic patterns on the adjoining road network.

7.17. The applicant for direction in this case makes the point that the proposed development will give rise to emissions to the air. The local authority has submitted an Air Quality Assessment. The assessment has adopted the criteria for air quality followed by the EPA in its most recent published report 'Air Quality in Ireland 2014'. These criteria are levels sulphur dioxide, carbon dioxide, hydrocarbons, PM<sub>10</sub>, hydrochloric acid, mercury, dioxins and furans. The smoke from the cremations will be vented through a stack 6.7m above ground level following treatment within the stack comprising heat exchange, dust extraction and an activated carbon and calcium oxide filtration system. There will be emissions to the air but the modelling prepared as part of the Part 8 specified development procedure concludes that the emissions from the exhaust stack will be very significantly lower than the air quality limit values specified in the Air Quality Standards Regulations 2011 (S.I. 180 of

2011). The proposed crematorium is not a licensable activity under the EPA Act 1992, as amended, nor does it require a license under the Air Pollution Act 1987. In the operational phase of the development the planning authority will adopt best practice as recommended by the British Department of Environment, Food and Rural Affairs “Statutory Guidance for Crematoria “Process Guidance Note 5/2(12)” in relation to continuous monitoring of stack emissions. Monitoring records will be maintained on site for public inspection.

7.18. Having reviewed the material submitted to the Board by the applicant for a direction and by the local authority, the EIA Directive, Schedules 5 and 7 of the Planning and Development Regulations 2001, as amended, and notwithstanding that there will be emissions from the crematorium I take the view that, in this case, a receptor must exist that would be susceptible to a significant environmental effect arising from the proposed crematorium to trigger the requirement for EIA. In particular I have had regard to paragraph 5.33 and following – Characteristics of Potential Impacts - of the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development”. The proposed development will not impact on a large population and will not have transfrontier impacts. The crematorium is modest in scale and there are not a wide range of environmental media likely to be affected. I conclude that there is no receptor susceptible to significant environmental effects arising from the proposed development.

## **8.0 Recommendation**

8.1. Having regard to my assessment above, I consider that the proposed construction of two halls for the holding of services, an administration building, a crematorium building, a coffee/flower shop, car parking, new burial plots landscaping and associated works all at Shanganagh Cemetery, Shankill, County Dublin would not be likely to have significant effects on the environment. I, therefore, recommend that the Board does not direct the local authority to prepare an environmental impact statement in respect of the development the subject of this report based on the reasons and considerations set out below.

## 9.0 Reasons and Considerations

Having regard to;

- (a) the submissions made in this case by the Corbawn Area Residents Association and by the Dun Laoghaire Rathdown County Council,
- (b) the nature and scale of the proposed development,
- (c) the provisions of Schedule 5 and Schedule 7 of the Planning and Development Regulations 2001, as amended,
- (d) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development” issued by the Department of the Environment, Heritage and Local Government in August 2003, and the guidance document “Interpretation of definitions of certain project categories of Annex I and II of the EIA Directive” published by the European Commission in 2015,

it is considered that the proposed development does not fall within a Class in Part I or Part II of Schedule 5 to the Planning and Development Regulations 2001, as amended, and would not be likely to have significant effects on the environment and that, consequently, the preparation and submission of an environmental impact statement is not required.

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**Hugh Mannion**

Planning Inspector

8<sup>th</sup> November, 2016