



To: Chief Executives, City and County Councils
Directors of Services for Planning for each City and County Council
Senior Planners, City and County Councils

cc: Office of Planning Regulator
An Bord Pleanála

Circular Letter: NRUP 05/2022

17th November 2022

Appropriate measures to ensure the protection of unrecorded burials associated with institutions operated by or on behalf of the State (or in respect of which the State had clear regulatory or supervisory responsibilities) in Development Plans, in circumstances where there is a possibility that unrecorded burials may have taken place, on foot of the publication of the Final Report of the Commission of Investigation into Mother and Baby Homes.

A Chara,

I am directed by Mr. Darragh O'Brien T.D., Minister for Housing, Local Government and Heritage, to bring to your attention the planning issues related to the protection of sites associated with institutions operated by or on behalf of the State (or in respect of which the State had clear regulatory or supervisory responsibilities), in circumstances where a planning authority, on the basis of information before it, considers that there is a reasonable possibility that unrecorded burials associated with the former institutional use of the site may have taken place and where it considers that any such burials would be of social and / or cultural significance.

Further to publication of the Mother and Baby Homes Commission's final report, the Government prepared a Strategic Action Plan. Under Action 22 of the Action Plan, the Minister for Housing, Local Government and Heritage committed to issuing a circular to



all planning authorities advising of the precautionary approach to be taken in County and City Development Plans to the proper safeguarding of burial sites from potentially harmful development.

Accordingly, it is highlighted that in particular, Section 10(d) as well as Section 10(f) of the Planning and Development Act 2000 are each mandatory requirements, which state that objectives shall be included in a development plan for the purposes of:

“the integration of the planning and sustainable development of the area with the social, community and cultural requirements of the area and its population”, and
“the protection of structures, or parts of structures which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest”.

Accordingly, there is scope to formulate objectives in development plan review or variation processes for the purpose of preserving and protecting unrecorded burial sites pending further investigation, in circumstances where the planning authority (on the basis of information before it) considers that there is a reasonable possibility that unrecorded burials associated with the former institutional use of the site may have taken place and that such burials would be of social, community and / or cultural significance.

Furthermore, the statutory process of preparing or varying the development plan includes opportunities for public participation and consultation. Such input to the process provides scope for local knowledge and information gathering that may contribute to the identification and assist with the subsequent protection of such burial grounds.

The *Institutional Burials Act 2022* was enacted in July 2022. This legislation allows for the excavation, recovery, and analysis of remains at any institutional sites where evidence emerges that there have been manifestly inappropriate burials. Government has approved an intervention under the Act at the site of a former Mother and Baby Institution.



In addition to the development plan objectives set out above, local authorities, acting in their capacity as planning authorities in respect of individual planning applications, may also attach such conditions to potential development as considered appropriate in the circumstances.

Accordingly, it is requested that Planning Authorities ensure that locations where there may be evidence of unrecorded burial sites, are preserved and protected through the development plan review or variation process, to both enable public consultation and to allow for further investigation and any subsequent action that may be required. It is also noted that in assessing planning applications at such locations pending development plan review or variation, evidence of unrecorded burial sites should be treated as a material consideration.

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Paul Hogan

Chief Planner

Department of Housing, Local Government and Heritage