

Statement from the Special Advocate: 23 July 2026

Serious questions over efforts by the Commission of Investigation into Mother and Baby Homes to uncover the truth of burial ground locations in Bessborough raised by former Minister Dr Katherine Zappone's submission to An Coimisiún Pleanála.

The Special Advocate has reviewed submissions made to An Coimisiún Pleanála in relation to development at Bessborough. The contents of former Minister Dr Katherine Zappone's submission to An Coimisiún Pleanála relating to development at Bessborough dated 13 April 2026, raise serious concerns. This letter is included in the appendix below.

The former Minister's letter was included in the collection of publicly available submissions to An Coimisiún Pleanála obtained by the Special Advocate, who has received numerous queries from Survivors and Affected Persons in the wake of the planning authority's decision.

Not enough done to determine burial sites in Bessborough

The Special Advocate expressed her shock that we now have a situation where a former Minister, who had ultimate responsibility for the Commission of Investigation into Mother and Baby Homes and the investigation on institutional sites, stated in her submission to An Coimisiún Pleanála that ***"enough was not done to determine burial sites in Bessborough"***

In this submission, former Minister Dr Zappone stated

"there were modest efforts to do so (locate burial grounds) at Bessborough by the MBH Commission, but these were not sufficient or similar to the efforts made at Tuam."

In her submission to An Coimisiún Pleanála, former Minister Dr Zappone also rejects the planning requirement to have forensic archaeologists on site during a building development as she states in her objection

"it seems logical to conclude that builders who are working on the site would hold even greater potential to destroy human remains, even with monitoring, thus potentially obliterating any kind of possibility of DNA identification."

Patricia Carey, the Special Advocate for Survivors said:

"the contents of this letter of objection to An Coimisiún Pleanála by the former Minister who held responsibility for the Mother and Baby Homes Commission of Investigation, clearly indicates that the former Minister is concerned about the sufficient efforts by the Commission to locate infant and child remains in Bessborough"



Call to seek information from lead forensic archaeologist

In this submission, former Minister Dr Zappone suggested that An Coimisiún Pleanála seek information from the lead forensic archaeologist¹ as to why the **Mother and Baby Homes Commission of Investigation** did not ask them to conduct a Ground Penetrating Radar examination of the grounds.

Dr Zappone goes on to state in respect of Bessborough, and the lead consultant Forensic Archaeologist, that

“the Mother and Baby Homes Commission of Investigation did not request [lead consultant Forensic Archaeologist] (who was their consultant to them on these matters) to do the same kind of initial testing for potential human remains as was done in Tuam. No Ground Penetrating Radar was used (in Bessborough) as it was in the first phase of testing in Tuam”

Institutional Burials Act 2022 should apply to all potential burial sites

In this submission, former Minister Dr Zappone also emphasises it was her direction while Minister that that the Institutional Burials Act 2022 “*should also apply to all other potential burial sites at the various mother and baby institutions.*”

Patricia Carey said

“Many mothers and other family members have contacted the Special Advocate, to ask me to raise the issue of their not knowing where their child is buried on the grounds of institutions across Ireland. The fact that there is no definite identification these burial grounds is a heartbreaking situation for those mothers and the wider family members of those children who died.”

The Special Advocate urges the State to reinvestigate at institutions to ensure the burial grounds can be finally and comprehensively identified.

Section 8(4) of the Institutional Burials Act 2022 refers to ‘Burial Grounds Regulations’ of the Regulation of Burial Grounds Act 1888, in referencing this section I contend that Section 8 (1) does cover those other sites whereby:

- **We do not know if burial records exist for each person who died in these institutions.**
- **We do not know if the remains are uncoffined.**
- **We do not know if the burial was inappropriate.**

This would allow for further, forensic and final identification of burial grounds in both these institutions under the powers in the *Institutional Burials Act 2022*.

¹ Section 11(3) of the Commissions of Investigation Act 2004 (COIA 2004) states that ‘A person (including a member of the commission) shall not disclose or publish any evidence given or the contents of any document produced by a witness while giving evidence in private’, except in limited circumstances which include under court order and to a subsequent tribunal. Section 40 COIA 2004 restricts the application of Freedom of Information to Commission of Investigation records; FOI applies to records created before the establishment of a Commission and administrative records of a Commission, including regarding the appointment of persons to provide advice or assistance to the Commission.

Given the scale of deaths in these institutions of both children and mothers, it is incumbent on the State to finally identify the final resting place of those who died in these institutions, in order to value and properly honour our dead.

Impact on Survivors and Affected Persons

The situation at Bessborough has caused Survivors and Affected Persons and their families immense distress and upset and a feeling by many that the State is pitting “*mother against mother, child against child*” in determining the approach to memorialisation and dignified burial for those who died across Ireland’s network of institutions.

The Special Advocate welcomes the Taoiseach’s recent comments on Bessborough and that Cork City Council has been asked to engage with the landowners of Bessborough on the future of the site and his emphasis that “*Bessborough is of huge importance to many people and families, at home and abroad. We need to do the right thing for all concerned*”.

Recommendations from the Special Advocate for Survivors

In response to these comments from An Taoiseach, and on the basis of the former Minister’s submission to An Coimisiún Pleanála, the Special Advocate repeats her call for :

- the **release of all sealed Mother and Baby Homes Commission of Investigation records, documentation and reports relating to burial ground investigations in all institutions.**

Releasing these key documents would indicate the State’s commitment to transparency, in response to concerns expressed by Survivors and their families that the Commission of Investigation had not fully investigated these potential burial sites.

Minister Foley has refused in the Dáil to produce either the Index to the MBHCOI Archive or the records contained in that Archive that relate to burial ground investigations². The Minister has argued that section 11(3) of the Commissions of Investigation Act 2004 ‘*prohibits any person (including the Minister) from disclosing or publishing any evidence given or the contents of any document produced by a witness while giving evidence in private, with very limited exceptions*’.

It is the position of the Special Advocate that:

“Burial investigations are not ‘witness evidence’, therefore I see no bar to their publication. Under section 11(3) COIA 2004 a court can direct disclosure of evidence and records contained in the MBHCOI Archive. I am calling on the Taoiseach and the Minister for Disability, Children, Equality to instruct the Attorney General to seek such a court order immediately.”

² Parliamentary Questions Tuesday 16 June 2026 [Mother and Baby Homes – Tuesday, 16 Jun 2026 – Parliamentary Questions \(34th Dáil\) – Houses of the Oireachtas](#)

- a **Compulsory Purchase Order** by Cork City Council of the Bessborough site
- **further investigation of the Bessborough grounds**, including through non-invasive archaeological methods, in order to identify the burial grounds of 859 babies, infants and 19 mothers who remain disappeared.
- Engagement by the State with Survivors and Affected Persons of Bessborough, and the Special Advocate for Survivors, to determine a shared approach to memorialisation and dignified burial for the 923 infants and children, as well as the mothers who died at Bessborough. **19 mothers and 859 infants remain disappeared, without burial records**³.

ENDS

For interviews / comment please contact:

Patricia Carey, Special Advocate for Survivors of Institutional Abuse

- **Email:** info@specialadvocate.ie
- **Phone:** +353 (0)1 511 7660

³ Mother and Baby Home Commission of Investigation, Executive Summary, page 29. [Executive Summary](#)



Appendix



Dr. Katherine Zappone



13th April 2026

Case Number: 324153

Bessborough, Ballinure, Blacrock, Co. Cork

Permission for a Large-Scale Residential Development (LRD): Demolition of 10 agricultural buildings/sheds and the construction of a residential development of 140 no. residential apartment units. Development is situated within the curtilage of Bessborough House which is a Protected Structure (Reference: RPS 490).

I wish to make an observation on the decision to permit this residential development.

Context

I hold a personal and professional interest in this case, as I was the Irish Minister for Children who held responsibility for oversight of the Mother and Baby Home Commission (2016-2020). During my tenure, I received several reports from the Commission, and separately commissioned and received a report from Dr. Niamh McCullagh, whom I appointed in 2017 to lead an Expert Technical Group to assist me in making a decision regarding the kinds of responses that were possible by Government to the findings of juvenile remains in Tuam, Co. Galway. Dr. McCullagh is a Consultant Forensic Archeologist. On the basis of the options laid out by Dr. McCullagh, I recommended to Government the option of a full excavation, exhumation and attempt to identify the remains in Tuam, Co. Galway. The Government accepted my recommendation and one of the first tasks was to write a new law to enable the Government to proceed with this option. While this law – Institutional Burials Act 2022—became enacted subsequent to my tenure, I was the Minister to initiate work on the bill that preceded it. Of note here was my direction that the Act should apply not only to Tuam, but should also apply to all other potential burial sites at the various mother and baby institutions throughout the country.

Bases for my Appeal

There are three bases for my appeal, two are related to law and the third is more pragmatic having to do with a process I will recommend, that flows from this law. Underneath this rationale, though, is my passionate belief in the human dignity of the 19 mothers and 859 infants associated with Bessborough whose burial places are not known.

1. A Transitional Justice approach by the State to the horror of its historical treatment of mothers and children, especially those who did not receive a dignified or known burial. Within the United Nations Human Rights system, a transitional justice



approach to the reality of mass burials is based on five pillars – the right to truth, justice, reparation, non-recurrence and memory processes.

I was informed by this approach in everything I did with regard to my oversight of the Commission's work. It helped me to grasp the gravity of what had happened, and how to begin to appropriately respond from a deeply human, heart-felt and ethically-based place.

With regard to the issue at hand, a transitional justice approach requires appropriate and effective efforts by the State to investigate the possibility of mass burials on the 60 acres where planning permission has been granted in Bessborough.

As the Irish Human Rights and Equality Commission has said, 'The State is under a legal duty [the European Convention on Human Rights, Articles 2, 3 and 8] to investigate mass burials and to preserve and protect evidence at sites ...and those families who mourn those buried in these mass graves, must be treated with dignity, with respect for their human rights ...' (during their commentary on the 'Institutional Burials' Bill).

A Transitional Justice approach also brings victims/survivors to the centre of the process of responding to devastating historical atrocities. As they say themselves, 'nothing about us, without us'. In 2018, I established a Collaborative Forum for survivors and families, to request their views on a number of matters. Forum members were carefully selected by members of my department to ensure a fullness of representation. One of their recommendations, with regard to the 'protection of burial sites, data research and related matters' was:

'3.6 Archeological surveys to be undertaken at Mother and Child Institution sites to ascertain location and scale of burials of non-religious in such grounds.'

There were modest efforts to do so at Bessborough by the MBH Commission, but they were not sufficient nor similar to the efforts made at Tuam. I agree with human rights experts and others that these initial efforts do not meet the threshold of the state's legal duty in this regard. They do not represent a transitional justice approach, nor do they meet the formal recommendations of a broadly representative group of survivors established by the state itself.

2. The Institutional Burials Act 2022

As outlined above, it was my ministerial intention that such an act could be drawn on for the possible burials of children and mothers in any mother and baby institution setting. We would begin with Tuam. We would learn lessons from Tuam. These would be uncharted waters. But there could be no human, logical or ethical reason to draft a bill that would exclude all sites bar Tuam. I am aware –



perhaps more than most—of the issue of cost. That loomed large with regard to the Government's decision on Tuam. Ministerial decision making then should be relevant to the State's actions now.

The Act that passed incorporated the spirit of this decision-making. The Act is not site-specific and allows for excavations and identification programmes at other institutional sites should manifestly inappropriate burials be discovered. However, there is a critical legal threshold problem. The Act requires evidence that burials took place in a "manifestly inappropriate" manner at a specific location before an Office of a Director of Authorised Intervention can be established, to initiate an excavation and exhumation comparable to what is happening at present in Tuam.

The Mother and Baby Home Commission did not request Dr McCullagh (who was their consultant to them on these matters) to do the same kind of initial testing for potential remains as was done in Tuam. No Ground Penetrating Radar was used (as it was in the first phase of testing in Tuam) which led Dr. McCullagh and team to engage in the second phase of pilot testing potential remains through excavation.

I understand that you (An Coimisiún Pleanál) made a determination in 2021 to refuse permission to develop the apartments because it would be premature pending further investigation of burial questions. I agree with that determination. I also understand that the current application for planning incorporates the conditions for a forensic archaeologist and an osteoarchaeologist/forensic anthropologist with expertise in skeletal juvenile remains to monitor all excavation, and that work would cease if remains were found. The Expert Technical Group I established also had two professionals such as those.

What I know from the Tuam experience as documented by Dr. McCullagh in her Expert Technical Group report to me, however, is that *there is a great risk to destruction of human remains* in any kind of archaeological excavation as would be required for the burials. It would seem logical to conclude that builders/developers who are working on the site would hold even greater potential to destroy the human remains, even with the monitoring, thus potentially obliterating any kind of possibility of DNA identification.

Dr McCullagh's report further states that archaeological excavation is inherently destructive. It 'is a destructive process; information is lost if not recorded promptly, accurately and comprehensively in a standardised approach. The approach must satisfy judicial requirements, irrespective of whether for judicial or humanitarian reasons.' I am not convinced that a proper process can be done by archaeological professionals standing on the side of builders and their bulldozers.



3. The right way forward and a pragmatic way forward.

There are several ways forward to ascertain if the 60 acre grounds of Bessborough hold human remains, many of which the Government or state actors could commence. I am fully in agreement with other experts, for the reasons outlined above, that the State is obliged under the European Convention on Human Rights to investigate the deaths of children and mothers, and that Article 2 of the ECHR obliges the State to make every effort to search for and identify persons who have been disappeared, including those buried unidentified while in institutional care

The critical point is that these are *positive* obligations — they require the State to act, not merely to refrain from interfering. Saying the Government "cannot interfere with planning" treats this as a matter of executive restraint, when the human rights framework actually requires the opposite: active State investigation. This is not to be treated, then, as a standard planning matter.

The best way forward is for the state to order a geophysical survey. This would be the most targeted intervention. A state-commissioned geophysical survey (ground-penetrating radar, etc.) could be conducted relatively quickly and non-invasively. If it revealed evidence of remains, this could both trigger the Institutional Burials Act and provide grounds for refusing planning.

If this is unlikely to happen, there may be a pragmatic way forward that could assist your decision, and might also prompt the state to do the right thing.

You could request further information from Dr Niamh McCullagh, prior to making your decision. You could ask her: 1) why, in her opinion, did the Commission not request her to take a GPR examination of the Bessborough grounds; 2) why, in her opinion, did the MBH Commission nevertheless conclude that burials were 'highly likely' to have taken place on the grounds; and 3) what would be involved in doing a GPR and/or use of other non-invasive techniques (for example, drone-based GPR that may be less costly and need less time) on the Bessborough grounds now? What might be the timeframe and cost?

Her evidence or views, could assist you greatly, I believe, in coming to a decision. It might also provide a relevant professional view that the current Government could draw on to fulfill all of its human rights legal obligations in this regard.

Dr. Katherine Zappone
14th April 2026

About the Special Advocate for Survivors of Institutional Abuse

The appointment of a Special Advocate for Survivors fulfils a core commitment in the Government's Action Plan for Survivors and Former Residents of Mother and Baby and County Home Institutions, which contains a number of measures designed to address broader experiences of institutional trauma and forced family separation. This Action Plan recognises that the response of Government to the legacy of these institutions must be directly informed by the voices of those most centrally affected.

The Special Advocate's remit encompasses Mother and Baby Institutions, County Home Institutions, Magdalene Laundries, Industrial and Reformatory School Institutions, and related institutions, and those adopted, boarded out or the subject of an illegal birth registration.

The Special Advocate is operationally independent of Government.

The role of the Special Advocate for Survivors is to:

- ensure that the views of Survivors and Affected Persons are central to the delivery of the State's response to the legacy of institutional abuse and forced family separation
- promote the collective interests of Survivors and Affected Persons, as expressed by them, and amplify their voices as a central, essential input to Government deliberations on matters which affect them.

About Patricia Carey

Patricia Carey has been in the role as Special Advocate for Survivors since 25 March 2024. Patricia Carey served as the CEO of the Adoption Authority of Ireland from 2014 to 2022, leading the Authority's work on the Birth Information and Tracing Act. Prior to this role she held the position of Director of Services for St Vincent De Paul, and has also held various volunteer leadership roles, including Chairperson of Connect Counselling for Survivors of Institutional Abuse and a founding member of Outhouse resource centre for the LGBT+ community. As an adopted person born in a Mother and Baby Institution, Patricia Carey brings a unique perspective and dedication to her work.

