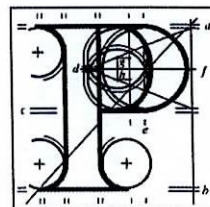


Our Case Number: ABP-314724-22

Your Reference: Will Phelan



**An
Bord
Pleanála**

Sudway and Company Limited
Riversdale House
Riversdale View
Ballyboden Road
Rathfarnham
Dublin 14

Date: 01 December 2022

Re: Railway (Metrolink - Estuary to Charlemont via Dublin Airport) Order [2022]
Metrolink. Estuary through Swords, Dublin Airport, Ballymun, Glasnevin and City Centre to
Charlemont, Co. Dublin

Dear Sir / Madam,

An Bord Pleanála has received your recent submission in relation to the above-mentioned proposed Railway Order and will take it into consideration in its determination of the matter.

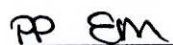
The Board will revert to you in due course with regard to the matter.

Please be advised that copies of all submissions/observations received in relation to the application will be made available for public inspection at the offices of the relevant County Council(s) and at the offices of An Bord Pleanála when they have been processed by the Board.

More detailed information in relation to strategic infrastructure development can be viewed on the Board's website: www.pleanala.ie.

If you have any queries in the meantime, please contact the undersigned. Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,



Niamh Thornton
Executive Officer
Direct Line: 01-8737247

RA05 (No Receipt to Issue)

Tel	Tel	(01) 858 8100
Glaao Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

SUDWAY & COMPANY LIMITED

CHARTERED SURVEYORS

N. SUDWAY, MRICS, MSCSI, FCIArb. M.MII

Riversdale House
Riversdale View
Ballyboden Road
Rathfarnham
Dublin, 14

Tel. No. 01-4061512

Fax No. 01-4061517

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.
D01V902.

AN BORD PLEANÁLA	
LDG-	_____
ABP-	_____
23 NOV 2022	
Fee: €	Type: _____
Time: <u>12.32</u>	By: <u>hand</u>

23rd November, 2022

Re: Railway (Metro Link Estuary to Charlemont via Dublin Airport) Order 2022
Mr. Will Phelan 3 Harcourt Terrace Dublin 2 DO2RC79 Ref: ML6EU16

Dear Sir or Madam,

With regards to the above matter I can confirm that I have been instructed to act on behalf of the above named party in relation to the above compulsory acquisition order as it effects their property. My client's property is part of a set piece regency terrace which was developed in the 1830's and is unique in that it is still largely intact and is therefore of significant architectural and historical significance. The property is also a protected structure under the current Dublin city Development plan.

DRAFT OF PROPOSED RAIWAY ORDER

My client was issued a letter dated the 20th of September 2022, which included several extracts from plans and a copy of the public advertisement placed in the Irish Independent on the 17th of September 2022, which proports to indicate they have applied for the relevant railway order. However, in their letter they refer to relevant extracts from the "draft of the proposed Railway order" In deed the booklet provided is called the Draft Railway order.

In my view there should be no draft involved at this juncture either TII wish to apply for a railway order or they don't. If they wish to apply for a Railway Order to the

Bord then both the Bord and Land owner should know exactly what is in the order and there should be no equivocation, which appears to be the case here were the documents are only draft. It begs the question of when will the final Order be submitted and will it be any different from the Draft Order. It is difficult to see how a land owner can make submissions or how the Bord can make decisions based on a draft.

COMPUSORY PURCHASE AND SUPPORTING INFORMATION

In respect of the draft Order I would point out that reference is consistently made to the schedules which are not attached. In particular in part three makes reference to several schedules which are meant to indicate the lands being acquired. Again without these schedules and plans it is not possible for us to properly identify the lands being acquired and the possible effects on our property .I would also draw the Bords attention to section 7.59 of the Non – Technical summary which states that there is are "limits of deviation during the construction phase . There is no such provision allowed in law. In fact schedule three of the 1966 Housing act states "the compulsory purchase order shall be in a prescribed form and shall describe by reference to a map the land to which it relates and shall incorporate, subject to the modifications here and after mentioned any necessary adaptations" Clearly the documentation provide to date does not meet this legal requirement.

SUBSTRATUM DEFINITION

The documentation supplied to date makes reference to acquiring substratum. There is no definition supplied as to what this is. Is it measured from the top or the bottom of the Tunnel? When they say the surface what do they mean, is it the floor of a basement and what consideration has been given to any structures with piled foundations or underground car parking? One can only presume that TII will attempt to rely on rule 17 as introduced by section 48 of the Planning and development (strategic infrastructure) Act 2006 which states "the value of any land 10 meters or more below the surface of that land shall be taken to be nil, unless it is shown to be of a greater value by the claimant". All the other rules for the assessment of compensation are based on the open market Value of the lands , which can be determined by a Arbitrator in default of agreement. It is simply not credible that

legislation can be introduced where the state has in essence predetermined a nil Value to part of someone's property. In deed even in the case of a half road bed which is controlled by a local authority this is not the case. We would ask that the Bord should seek legal clarity from the Courts as to whether this legislation is Legal in the first instance.

The lack of detailed design drawings means that we have no indication of where the top of the Tunnel will be in relation to the underside of our basement floor level of our property or any foundations. This will have serious implications for the property in terms of risk from Vibration during the works and also when the Rail is operational, and also in relation the possible interpretation of rule 17, as referred to previously.

APPROPRIATE ASSESSMENT

We also note that the Historic nature of Harcourt Terrace doesn't feature anywhere in the non -Technical summary not even in section 10.17 of the non -Technical summary which purports to deal with Archaeology and Cultural Heritage. One can only conclude that it has not been considered in TII's deliberations in relation to possible effects on a architecturally significate part of Dublin.

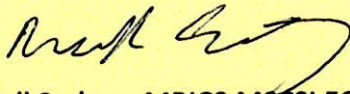
In relation to Section 10.12 Soils and Geology, in the non-technical summary. It is our view that it is far to vague, so as to be of little use when considering possible impacts on our property. We would like to put on record that there is a granite rock seam which runs through the lands adjacent to Harcourt Terrace and our property which will in our view constitute a risk of damage occurring to our property, especially during the works. This would appear not to have been considered. We also that there is a underground river called the river Steyne which flows below the Terrace, similarly, there has been no cognizance or consideration of this demonstrated within these proposals.

For the reason stated above we feel that the Bord should reject the draft order as submitted and also on the basis that the acquisition of our lands would constitute a breach of my Clients constitutional right to the quiet enjoyment of their property.

CONCLUSION

In conclusion we would request that in any decision the Bord makes they should direct that my Clients costs, incurred in dealing with this matter should be discharged by the TII.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Niall Sudway', with a stylized flourish at the end.

Niall Sudway MRICS, MSCSI, FCIARbM.MII