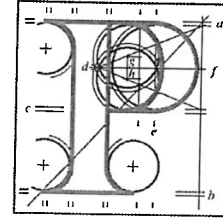


Our Case Number: ABP-315183-22

Planning Authority Reference Number: LRD6002/22S3

Your Reference: John Conway and Louth Environmental Group



An
Bord
Pleanála

BKC Solicitors
252 Harold's Cross Road
Harolds Cross
Dublin 6W
D6W T384

Date: 22 December 2022

Re: Construction of 580 no. apartments and associated site works.
Lands to the east of Saint Paul's College, Sybil Hill Road, Raheny, Dublin 5

Dear Sir / Madam,

An Bord Pleanála has received your submission including your fee of €50.00 in relation to the above-mentioned large-scale residential development and will consider it under the Planning and Development Act 2000, as amended.

Your observations in relation to this appeal will be taken into consideration when the appeal is being determined.

Section 130(4) of the Planning and Development Act 2000, as amended, provides that a person who makes submissions or observations to the Board shall not be entitled to elaborate upon the submissions or observations or make further submissions or observations in writing in relation to the appeal and any such elaboration, submissions or observations that is or are received by the Board shall not be considered by it.

If you have any queries in relation to the appeal, please contact the undersigned. Please mark in block capitals "Large-Scale Residential Development" and quote the above-mentioned reference number in any correspondence with An Bord Pleanála.

Yours faithfully,


David Behan
Executive Officer
Direct Line: 01-8737146

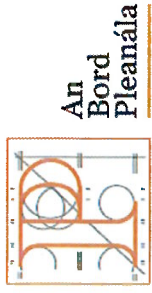
LRD40 Acknowledge valid observer submission

Tel	Tel	(01) 858 8100
Glaao Áitiúil	LoCall	1800 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
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Lodgement Cover Sheet - LDG-060190-22

LND 40 to issue -
315183 LRD 6002/22S3



Details

Lodgement Date	21/12/2022
Customer	John Conway and Louth Environmental Group
Lodgement Channel	Web Portal
Lodgement by Agent	Yes
Agent Name	BKC Solicitors
Correspondence Primarily Sent to	Agent
Registered Post Reference	

Lodgement ID	LDG-060190-22
Map ID	
Created By	David Behan
Physical Items included	No
Generate Acknowledgement Letter	
Customer Ref. No.	
PA Reg Ref	LRD6002/22S3

Categorisation

Lodgement Type	Observation / Submission
Section	Strategic Housing

PA Name	Dublin City Council North
Case Type (3rd Level Category)	Appeal - LRD

Fee and Payments

Specified Body	No
Oral Hearing	No
Fee Calculation Method	System
Currency	Euro
Fee Value	0.00
Refund Amount	

Observation/Objection Allowed?	
Payment	PMT-047068-22
Related Payment Details Record	PD-046958-22

Observation

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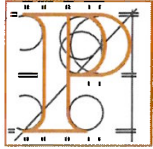
	The development will consist of: 1. The construction of a residential development set out in 7 no. blocks, ranging in height from 4 to 7 storeys to accommodate 580 no. apartments,
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residential tenant amenity spaces, a crèche and a 100 bed nursing home. The site will accommodate 520 no. car parking spaces, 1574 no. bicycle parking spaces, storage, services and plant areas. Landscaping will include extensive communal amenity areas, and a significant public open space provision. 2. The 7 no. residential buildings range in height from 4 storeys to 7 storeys accommodating 580 no. apartments comprising 272 no. 1 bed units, 15 no. 2 bed units (3-person), 233 no. 2 bed units (4-person), 60 no. 3 bed units. Balconies and terraces to be provided on all elevations at all levels for each block. The breakdown of residential accommodation is as follows: Block A is a 5 storey building, accommodating 61 no. units; Block B is a 5 storey building, accommodating 70 no. units; Block C is a 5-7 storey building, accommodating 112 no. units; Block D is a 4-5 storey building, accommodating 136 no. units; Block E is a 4-7 storey building, accommodating 96 no. units; Block F is a 5 storey building, accommodating 36 no. units; Block G is a 5 storey building, accommodating 69 no. units; Residential tenant amenity space is provided at ground level of Block C, D, E, F & G (c.961 sq.m). External residential open space between and adjacent all blocks. A crèche is provided in Block G with a total floor area of c.750 sq.m and external play spaces totalling c.583 sq.m. 3. A proposed 100 bed nursing home with ancillary amenity and service areas and staff facilities, located to the south of the site, as part of Block G. The proposed nursing home consists of a 4 storey building arranged around a courtyard garden which also forms part of the wider Block G. 4. Blocks C & D and F & G are located above a

PA Case Number	Development Description	
LRD6002/22S3	proposed basement and central podium containing parking areas, plant areas, waste storage. The car-parking breakdown is as follows: Residential: 471 spaces across basement, podium and surface; Nursing Home: 41 across podium and surface; and Crèche- 8 all at surface level. A total of 1574 cycle parking spaces are provided at basement, podium and throughout the site in both secure parking facilities for residents and staff and at surface level for short term/visitors.5. Total public open space proposed is c.2.09 ha which includes a new c.1.78ha public open space which is provided to the south and east of the site and includes for 6 no. playing pitches of mixed sizes to be taken in charge by Dublin City Council (of a total area of c.1.8ha to be taken in charge). Proposed pedestrian access from the site to the adjacent St Anne's Park is proposed on the southern boundary of the site. 6. Widening and realignment of an existing vehicular access onto Sybil Hill Road to facilitate the construction of an access road with footpaths and on-road cycle tracks from Sybil Hill Road between Sybil Hill House and St Paul's College incorporating new accesses to Sybil Hill House and St Paul's College and the provision of new wall and railing boundary treatment along the new road and new pedestrian/vehicular gates to the new and existing accesses to Sybil Hill House and St Paul's College. To facilitate this new access road it is proposed to demolish an existing pre-fab building. The application also includes for the relocation of an existing pedestrian crossing on Sybil Hill Road. 7. The routing of surface water discharge from the site via St. Anne's Park to the Naniken River and the demolition and reconstruction of existing pedestrian river crossing in St.	

PA Decision Date	28/10/2022
County	
Development Type	
Development Address	Lands to the east of Saint Paul's College, Sybil Hill Road, Raheny, Dublin 5
Appellant	
Supporting Argument	N/A

	Anne's Park with integral surface water discharge to Naniken River. 8. The proposed application includes all site landscaping works, green roofs, substations, PV panels, boundary treatments, lighting, servicing, signage, surface water attenuation facilities and associated and ancillary works, including site development works above and below ground. An Environmental Impact Assessment Report and a Natura Impact Statement have been prepared in respect of the proposed development. The planning application may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of Dublin City Council during its public opening hours and a submission or observation in relation to the application may be made to the authority in writing on payment of the prescribed fee within the period of 5 weeks beginning on the date of receipt by the authority of the application. The application may also be inspected online at the following website set up by the applicant www.foxlandsrld2022.ie.
Applicant	
Additional Supporting Items	Yes



An
Bord
Pleanála

Planning Appeal Online Observation

Online Reference

NPA-OBS-001651

Online Observation Details

Contact Name
Christine O Connor

Lodgement Date
21/12/2022 17:33:11

Case Number / Description
315183

Payment Details

Payment Method
Online Payment

Cardholder Name
Brian Burns

Payment Amount
€50.00

Processing Section

S.131 Consideration Required

☐

Yes — P.T.O.

☐

N/A — Invalid

Signed

EO

Date

S.37

File With

SECTION 131 FORM

Appeal No

ABP—

Defer Re O/H

☐

Having considered the contents of the submission dated/received from _____ I recommend that section 131 of the Planning and Development Act, 2000 be/not be invoked at this stage for the following reason(s):

Section 131 not to be invoked at this stage.

☐

Section 131 to be invoked — allow 2/4 weeks for reply.

☐

Signed

EO

Date

Signed

SEO/SAO

Date

M

Please prepare BP — Section 131 notice enclosing a copy of the attached submission.

To

Task No

Allow 2/3/4 weeks

Signed

EO

Date

Signed

AA

Date



15th December 2022

To: An Bord Pleanála
64 Marlborough Street,
Dublin 1.

Re: Our Client: John Conway and Louth Environmental Group
Submission/Observation on Appeal to the proposed Development at Lands
to the east of Saint Paul's College, Sybill Hill Road, Raheny, Dublin 5
Application Reference: LRD6002/22S3
Appeal Number: LH29N.315183
Applicant: Raheny 3 Limited Partner

Dear Sirs/Madam,

We wish to lodge the within written submissions/observation on the proposed Development at Lands to the east of Saint Paul's College, Sybill Hill Road, Raheny, Dublin 5 ('the proposed development'), pursuant to s.8 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

The grounds and reasons for our submission/observations are detailed hereinafter.

- (i) An Bord Pleanála should refuse to consider and cannot grant permission for the proposed development in circumstances where such grant would have to be justified by reference to the Guidelines for Planning Authorities on Urban Development and Building Height 2018. These Guidelines and the specific planning policy requirements contained therein (in particular SPPR3) are ultra vires and not authorised by section 28(1C) of 2000 Act. In the alternative, insofar as section 28(1C)) purports to authorise these Guidelines including specific planning policy requirement, such provision is unconstitutional/repugnant to the Constitution. The said Guideline are also contrary to the SEA Directive, insofar as they purport to authorise contraventions of the development plan/local area plan, without an SEA being conducted on or a screening for SEA being conducted on the variations being brought about to the development plan/local area plan.

- (ii) The Height Guidelines in allowing for greater density impacts on the calculation of the overall amount of relevant lands zoned residential contained in the core strategy and housing strategy in the development plan. In such circumstances, the grant of permission in excess the maximum height results in a contravention of the zoning.
- (iii) The Application and application documentation does not comply with the requirements of the Planning and Development Regulations 2001 (as amended) in circumstances where, *inter alia*, there is insufficient detail provided in relation to the sub-structures referred to in the Outline Construction Management Plan and/or insufficient detail or information in relation to the construction phase operations required to realise such sub-structures.
- (iv) The Applicant Developer does not comply with the mandatory requirements of the Planning and Development Regulations 2001 (as amended) and the EIA Directive (as amended) insofar as it does not include a EIA report at all in their application.
- (v) The application documentation has not demonstrated that there is sufficient infrastructure capacity to support the proposed development, including by reference to public transport, drainage, water services and flood risk.
- (vi) No regard and/or inadequate regard has been given to the cumulative effects of the proposed development, in combination with other development in the vicinity, on the protected sites.
- (vii) No regard has being giving to the most recent Judgement of the High Court dated the 7th May 2021 [2021] IEHC 303. In relation to the zoning in particular.
- (viii) The Application is contrary to the zoning under the City Development Plan 2022-2026.

Article 2(1) of Directive 2011/92 (as amended by Directive 2014/52/EU) governs the relationship between giving consent and the assessment of the environmental effects:

“Member States shall adopt all measures necessary to ensure that, before development consent is given, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects on the environment...”

The EIAR is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.

- (ix) The Board lacks ecological and scientific expertise and/or does not appear (in light of the information available on the website) to have access to such ecological/scientific expertise in order to examine the EIA Screening Report as required under Article 5(3)(b) of the EIA Directive, which states that in order to ensure the completeness and quality of the environmental impact assessment report, *inter alia*, “the competent authority shall ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental impact assessment report.”
 - (i) The criteria considered in the EIAR does not comply with the requirements of the Planning and Development Act 2000, 2016 Act and the associated Regulations. The Application, and application documentation, does not comply with the mandatory requirements of the Planning and Development Regulations 2001 (as amended).
 - (ii) The Proposed Development, and documentation submitted, including the Planning Report, does not comply with the requirements of the Planning and Development Act 2000, the Planning and Development Regulations 2001, or the EIA Directive. The information submitted by the developer is insufficient and contrary to the requirements of the EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU) and the provisions of national law, including the Planning and Development Act 2000 (as
-

amended) and the Planning and Development Regulations 2001 (as amended).

Screening for Appropriate Assessment

By way of general summary, the information presented by the Developer is insufficient, contains lacunae and is not based on appropriate scientific expertise – as such Dublin City Council cannot comply with the requirements of the Habitats Directive and relevant provisions of national law under the Planning and Development Act 2000. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment of the implications of a plan or project for the site concerned implies that, before the plan or project is approved, all the aspects of the plan or project which can, either individually or in combination with other plans or projects, affect the conservation objectives of that site must be identified, in the light of the best scientific knowledge in the field. The competent national authorities are to authorise an activity on the protected site only if they have made certain that it will not adversely affect the integrity of that site. That is so when there is no reasonable scientific doubt as to the absence of such effects (see Case C-461/17, *Holohan & Ors v. An Bord Pleanála, Preliminary Reference*, 7 November 2018, para.33; see also Case C-243/15, *Lesoochránárske zoskupenie VLK*, 8 November 2016, para.42; *Commission v. Spain*, Case C-404/09, 24 November 2011, para. 99; and *Grüne Liga Sachsen and Others*, Case C-399/14, 14 January 2016, paras. 49 and 50). An Appropriate Assessment carried out under Article 6(3) may not have lacunae and must contain complete, precise and definitive findings and conclusions capable of dispelling all reasonable scientific doubt as to the effects of the proposed works on the protected area concerned.

The Proposed Development does not comply with the requirements of the Planning and Development Act 2000 (as amended) (*under Part XAB of the 2000 Act (ss.177R-177AE)*) and the Habitats Directive.

Yours faithfully,



Christine O' Connor,
BKC Solicitors