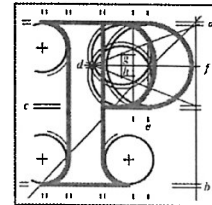


Our Case Number: ABP-315183-22

Planning Authority Reference Number: LRD6002/22S3



**An
Bord
Pleanála**

Ray Byrne
54 Conquer Hill Road
Clontarf
Dublin 3

Date: 21 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,



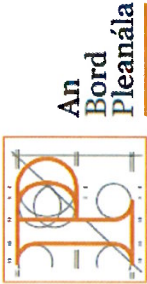
Ashling Doherty
Executive Officer
Direct Line: 01-8737160

LRD40 Acknowledge valid observer submission

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

Lodgement Cover Sheet - LDG-060105-22



Details

Lodgement Date	20/12/2022
Customer	Ray Byrne
Lodgement Channel	Web Portal
Lodgement by Agent	No
Agent Name	
Correspondence Primarily Sent to	
Registered Post Reference	

Categorisation

Lodgement Type	Observation / Submission
Section	Strategic Housing

Fee and Payments

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

Observation

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Run at: 20/12/2022 13:05

Run by: Niamh Hickey

LRD LRD Issued

315183

Lodgement ID	LDG-060105-22
Map ID	
Created By	Niamh Hickey
Physical Items included	No
Generate Acknowledgement Letter	
Customer Ref. No.	
PA Reg Ref	LRD6002/22S3

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

Observation/Objection Allowed?	Yes
Payment	PMT-046995-22
Related Payment Details Record	PD-046885-22

	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



An
Bord
Pleanála

Large-scale Residential Development Appeal Observation

Online Reference
LRD-OBS-006085

Online Observation Details

Contact Name
Ray Byrne

Lodgement Date
20/12/2022 11:19:50

Case Number / Description
315183

Payment Details

Payment Method
Online Payment

Cardholder Name
Ray Byrne

Payment Amount
€50.00

Fee Refund Requisition

Please Arrange a Refund of Fee of

€

Lodgement No

LDG—

Reason for Refund

Documents Returned to Observer

☐

Yes

☐

No

Request Emailed to Senior Executive Officer for Approval

☐

Yes

☐

No

Signed

EO

Date

Finance Section

Payment Reference

ch_3MH3rNB1CW0EN5FC0x6FRZPK

Checked Against Fee Income Online

EO/AA (Accounts Section)

Amount

€

Refund Date

Authorised By (1)

SEO (Finance)

Authorised By (2)

Chief Officer/Director of Corporate Affairs/SAO/Board
Member

Date

Date

Ray Byrne
54 Conquer Hill Road
Clontarf
Dublin 3

20th December 2022

An Bord Pleanála
64 Marlborough Street
Dublin 1

Re: Observation on ABP Case Reference: LH29N.315183

Dear Sir or Madam,

I am writing in relation to the above planning appeal submitted by 'Raheny 3 Limited Partnership' Ltd (i.e. Marlet Property Group, AKA Crekav) regarding Dublin City Council's refusal of their proposal (LRD6002/22-S3) to build 580 apartment units and a retirement home up to 7 storeys high on park lands to the rear of St. Paul's College, Sybil Hill Road, at St. Anne's Park, Raheny, Dublin 5.

I have paid the €50 fee required to make this observation but would like to note that it seems unfair to keep having to pay out every few years to object to repeated applications for residential development on the St Pauls Playing Fields in St Anne's Park, when development on these lands has been repeatedly proven to be illegitimate through numerous refused and overturned planning applications.

I thought it unreasonable and cynical of Marlet Property Group to submit yet another planning application (LRD6002/22-S3) after the 2021 Humphreys Judgement precluded residential development on these lands. I think it again now that they are appealing DCC's refusal (based on the protection of internationally important feeding habitat), when the lands have been zoned Z9 under the 2022-2028 City Development Plan. It appears that Marlet and their many consultants seem to consider planning and planning law as some short-term game to be played in pursuit of windfall profits, rather than a social and environmental contract that seeks to develop and maintain the city and its environment in an orderly and sustainable manner for the long-term benefit of its inhabitants.

Under the current Dublin City Development Plan (2022-2028) the land is zoned Objective Z9 Amenity/Open Space Lands/Green Network "To preserve, provide and improve recreational amenity, open space and ecosystem services", and therefore a large residential development is not permissible. On this basis alone the appeal must fail.

However to provide wider context as to why residential development is wholly unsuitable for these parklands I consider it is also worth reiterating and elaborating on the 17 points I submitted to DCC regarding LRD6002/22-S3 in my observation lodged on the 5th October last. These are as follows:

1. I am concerned at the proposed loss of the established amenity value of these lands -both in terms of their community sports provision and visually as part of the wider St Anne's Parkscape. As a father of two young children who have been members of Clontarf GAA, I have witnessed firsthand the effects

of the developer's decision to evict the club (and the other clubs) from their long-term home on the St Pauls playing fields in 2017. This resulted in serious logistical difficulties for the club and the parents of its members who found themselves having to drive out of the locality to distant playing pitches on a regular basis. The pressure for pitch space is only increasing so the community cannot afford the loss of the 6 pitches at St Paul's. It is unsustainable both in terms of logistics and the additional car journeys that have resulted. I see the developer is now proposing 6 little pitches instead, but these are no use for local clubs as they are not full size. The proposed pitches shown on the current application are miniature pitches barely amounting in total to the size of one GAA pitch, in lieu of the original 6 pitches from which sporting use was terminated by the applicant. This proposed shrinking of the original sports provision on the lands is not acceptable in planning terms and it cannot work for the wide sporting community previously served by the lands. The proposed development does not retain or protect the existing sporting and amenity use of the lands and the development is not in compliance with the zoning under the Development Plan.

2. I spent the morning of 17th November 2019 at a huge demonstration "Hands around the Lands" against a previous application for development of these playing fields -there were thousands of people there from every sporting community and then some. Thankfully that development was overturned in the High Court, which should have been the end of the matter. I trust this application will be refused as the High Court has already ruled that residential development is not suitable for these sports fields and I hope that the clubs can return to the St Pauls pitches in the very near future.
3. I am concerned regarding the loss of the land's biodiversity function, which provides a key role as part of the buffer zone of the Dublin Bay Biosphere (including the Bull Island SPA and SAC) as it is the most important ex-situ feeding site for Brent Geese.
4. The current planning application (LRD6002/22-S3) by Raheny 3 Limited Partnership (AKA Marlet Property Group, AKA Crekav) is in contravention of the Judgement of Humphreys J. delivered on Friday the 7th day of May, 2021 ([2021] IEHC 303) which found that the zoning of the St Pauls Playing Fields is tied to its established use as a sports ground, not its more recent unused status caused by the actions of its owner (since 2015), the Marlet Property Group. The change of ownership does not change the zoned use, which in the judgement was confirmed to be a sports ground as follows:
 31. *The first and most obvious problem is that change in ownership does not in itself alter the interest to be protected by the zoning: see per Simons J. in Redmond v. An Bord Pleanála [2020] IEHC 151 (Unreported, High Court, 10th March, 2020), at paras. 55 and 56. Simons J said that "[t]his established use and designation is not lost by dint of a transfer of ownership. Rather, it remains until such time as planning permission is granted for an alternative use, such as, for example, residential use." I agree, and apply that decision here.*
 32. *What is particularly irrelevant on the facts here about the change of ownership is that that had already occurred when the development plan was adopted. The planning map is in a way even more important to this case than the Z15 zoning because it identifies that the site in question includes a sports ground, and did so notwithstanding that the ownership change had already occurred at that point.*

As such, the lands legal use remains that of a sports ground, not a residential development site and so planning permission for residential development cannot be granted.

5. The application is premature, prejudicial and not in compliance with the Dublin City Development Plan 2022-2028, under which the elected representatives of Dublin City Council have zoned the St Paul's playing fields as Z9 "Amenity Use" in line with the land's established use as a sports ground and its key role, along with the rest of St Anne's Park, in supporting the Dublin Bay Biosphere.
6. In the planning application the lands are described as "Lands to the east of Saint Paul's College, Sybil Hill Road, Raheny, Dublin 5" whereas they should be more accurately described as the St Pauls Playing Fields in St Anne's Park, and which are geographically, ecologically and socially a part of St Anne's Park.
7. Similar to previous, struck-down attempts to convert the land from amenity use to private residential use (applications ABP-300559 and ABP-305680-19), the development contravenes the EU Birds and Habitats Directives regarding the protection of feeding habitat for Brent Geese, Black Tailed Godwits and bats.
8. The developer has interfered, and continues to interfere with, an identified, established EU habitat in breach of the "precautionary principle", having removed the maintained grass football pitches and having (partially) erected hoardings despite no current planning permission being in place to change the use of the lands. Agents of the Irish state cannot reward this attempt to artificially disrupt the established use of the land as a habitat for protected bird species, without being in breach of the Habitats Directive.
9. Height: The abrupt change of scale and encroachment over St Anne's park with buildings of 4 to 7 storeys in height is to the severe detriment of adjoining two storey homes in the Meadows estate, the setting of Sybil Hill house (a protected structure), and the St Anne's parkscape, its fauna and recreational users. The justification for the material contravention of the Development Plan height cap is flawed and undermines the Dublin City Development Plan. Much of the height sought is outside the limited zone centred on Harmonstown DART station while Judge Humphries in his judgement ([2021] IEHC 303) states that the An Bord Pleanála Inspector's "conclusion on material contravention regarding building heights was invalid". The City Development Plan, and the amenity of the city's residents, must not be undermined by speculative commercial pressures.
10. This latest application is yet another attempt to up-zone the land without going through the required land rezoning process that is a reserved function of Dublin City Council's elected representatives. The elected representatives on Dublin City Council are unanimous in their support of the community to protect these lands for their established sporting and biodiversity uses. This

planning application flies in the face of the clear intentions of the democratically elected representatives in that it has been lodged *after* they have sought to protect the use of the land from the applicant's previous attempted abuse of the Z15 zoning, by designating the lands as Z9 "Amenity Use" in the current City Development Plan 2022-2028. This application further seeks to disregard the democratic process as the previous speculative applications for development on the land (applications ABP-300559 and ABP-305680-19), led to the Humphrey High Court ruling ([2021] IEHC 303) finding that the grant of permission for residential development on this land by An Bord Pleanála was impermissible.

11. Having failed to use the former SHD process to bypass legitimate community use safeguards encapsulated in the original Z15 zoning designation in the local government approved development plan, the developer is trying yet again to gain permission for development that is not in compliance with the site zoning, which is now Z9 Amenity. The same question is being asked through the new LRD process, despite the applicant having already been given a clear answer through the High Court judgement ([2021] IEHC 303) that overturned the previous An Bord Pleanála permission for residential development on this land.
12. The developer, and the Vincentian Order, which sold the land, are involved in displacement of established community use, including what were actively used sports pitches. The previous, overturned applications included a sports hall in an attempt to claim that some community use was being retained on the lands. This time around the applicant is offering even less to the community, merely giving assurances that the Vincentian Order, which retains ownership of St Pauls College, intend to redevelop the existing school's sports hall. The history of development attempts on these lands have demonstrated that what is promised by the Vincentian Order is not necessarily the same as what the Vincentian Order then goes on to do. The Order gave assurances that they would not demolish St Pauls Swimming Pool, then they did. They gave assurances that they would not sell any other land after they sold the swimming pool site, but then they sold the playing fields. Then just two working days after LRD6002/22-S3 was refused, the Vincentian Order and another developer, Tetrarch, applied for permission (DCC Reg Ref 5155/22) to build 78 apartments on the curtilage of Sybil Hill House (a protected structure), despite the written assurances given in LRD6002/22-S3 that the institutional use was to be retained, and the masterplan submitted showing the retention of verdant setting of Sybil Hill House. The Vincentian Order and its associated developers have never provided an accurate masterplan showing their true intent for the Sybil Hill/St Paul's lands and their assurances regarding future land uses cannot be taken at face value. It is self evident that no displacement of established community and sporting use should be permitted.
13. The Applicant claims that the park landscape that the proposed development will dominate and overlook is merely 20th century sports fields and not part of

the historic core of St Anne's, arguing in essence that development that is detrimental to parts of St Anne's doesn't matter. This is a fallacy as the 19th century parkscape as originally designed is substantially intact; the "outdoor rooms" of grassland formed by the avenues of Holm Oaks and Monterey Pines have, during the 20th century, merely changed from grazing to sporting use; visually the intended parkscape has survived and matured as substantially intended. The surviving parkscape is a unique asset for Dublin and must not be lost.

14. The speculative attempt to develop of the lands for private residential use represents an illegitimate attempt to privatise an established public amenity asset.
15. Similar to applications ABP-300559 and ABP-305680-19, this proposal is not about the provision of much needed housing. Instead it is about land speculation in the service of windfall de facto-rezoning profits for the applicant, should the land be permitted to change from its established public sporting amenity use to private residential use. There is enough appropriately zoned land in Dublin to supply the housing required; indeed there is a huge discrepancy in the amount of schemes granted planning permission compared to the number of which have translated to built homes. I saw a recent letter to the Irish Times by Robin Mandal FRIAI posted online which states the following:

Wed Aug 10 2022 - 00:09



Sir, – Your editorial “The Irish Times view on the rental market: deeply dysfunctional” (August 9th) aptly sums up the challenges ahead, with one exception. In calling for planning reform, you repeat the unsubstantiated trope that the delivery of housing is “delayed by seemingly endless appeals”.

In the Dublin area, the latest (Q4 2021) Housing Supply Task Force notes that there are granted permissions for 74,879 homes. Only 8,796 were completed and 18,051 commenced, leaving an excess of 48,032 unused permissions.

The Dublin Democratic Planning Alliance collected data on the discredited Strategic Housing Development process, which denied those rights of appeal. In February 2022, it had granted permission for 67,996 units, with only 12,933 commenced. Allowing for those that were under judicial review at the time, there were still 39,823 unused permissions countrywide. There are no delays to supply caused by planning.

The delivery of housing supply has never had any connection to the speed of granting planning permissions. In fact, most planning permissions for housing are unused. A grant of planning permission simply adds value to the land, without any commitment to building the granted housing, which is why the property industry lobby is so keen to link these two unconnected phenomena.

Proposals for planning reform should be for proper planning and sustainable development, not for the speed at which land values can be increased. – Yours, etc,

ROBIN MANDAL, FRIAI

I couldn't put it better myself, except to add that the housing supply problem will not be solved by destroying an important amenity space that serves the surrounding built-up areas.

16. Any grant of large scale residential development use on this land will cause a windfall increase in land value for the applicant, which is a planning concern as it will put the established (on the ground) and intended (in the development plan) uses of the land for institutional, sports, recreation and wildlife beyond the use of the community. The proposed residential development would permanently block this land from institutional, educational and sporting, amenity, open space and ecosystem services use, with an attendant catastrophic loss of biodiversity. The St Paul's playing fields must be protected to maintain their established sporting use and ecosystem function. By entertaining previous speculative attempts to put Z1 residential use on this - previously Z15 and now Z9 - zoned land, An Bord Pleanála has contributed to increasing the land's value beyond that which such land should command. It is therefore imperative that this speculation is ended through upholding DCC's decision to refuse as this will de-inflate the land value back in line with the land's actual established use and zoning status. The applicant is a speculative developer and there is nothing in law, nor of course the city development plan, that says such speculation has to be entertained or rewarded, particularly when it is to the detriment of the sporting facilities of the north inner suburbs and the flora and fauna of the Dublin Bay Biosphere and its attendant protected sites.

17. Yet again a planning application has being made -and now appealed- by the Marlet Property Group (AKA Raheny 3 Limited Partnership, AKA Crekav) for the St Pauls Playing Fields in St Anne's, despite the clear resolution of the planning process for applications ABP-300559 and ABP-305680-19 which were overturned in the High Court by the Humphries Judgment i([2021] IEHC 303).

Since the applicant bought the land from the Vincentian Order in 2015 (secretly and despite public assurances to the contrary from the vendor that the land would not be sold), the public participatory planning process has found, through Dublin City Council, An Bord Pleanála, and the High Court, (Judgement of Humphreys J. [2021] IEHC 303) that large scale residential development is not appropriate or permitted on these lands due to their former Z15 (now Z9) zoning covering their established use as sports pitches and feeding grounds for protected species.

Public confidence in the planning process has been damaged by the ill-judged SHD scheme which eliminated public participation at local authority level and which changed An Bord Pleanála's role from that of a respected quasi-judicial arbitrator of local authority planning decisions, to what has become increasingly perceived to be a developer-friendly rubber-stamper. An Bord Pleanála has been found, through a number of judicial reviews, not to have adequately taken Irish and EU environmental law into account in its decision making on numerous projects, including the two previous applications for these lands (ABP-300559 and ABP-305680-19) which were overturned at Judicial Review. Recent revelations regarding the actions and

inadequately declared interests of certain personnel at An Bord Pleanalá have further eroded trust in the Board's perceived objectivity and impartiality. With An Bord Pleanalá increasing being found to be in disrepute, citizens have been having to repeatedly uphold and enforce environmental laws with their own money and voluntary time. The democratic mandate of the planning system will be called into further disrepute if, despite 1) the Humphreys Judgement, 2) DCC's refusal of the application due to EU Habitat protection requirements, and 3) DCC's zoning of the land as Z9 Amenity, a similarly-inappropriate large residential scheme is permitted on these amenity lands. Such an outcome would cause the North Dublin community to pursue yet another Judicial Review to correct the decision.

To restore public confidence, the planning process needs to respect the planning history and established use of these lands and refuse this latest attempt to gain permission for a change of use which is grossly inappropriate and demonstrably outside of established planning and environmental law.

Yours Sincerely

Ray Byrne