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**LARGE RESIDENTIAL
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Appeal No: ABP-323764-25

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Applicant response to Appeal by email

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EO: A. Megawaty

AA: Dillon Colcoran

Date: 14/10/25

Date: 15/10/25

Loran

Daniel O'Connor

From: Sorcha Turnbull <sorchaturnbull@bradyshipmanmartin.com>
Sent: Tuesday 14 October 2025 15:21
To: Appeals2
Subject: Holy Cross College LRD- ABP-323764-25- Response to Third Party Appeal
Attachments: 7088_ClonliffeLRD_Response to Third Party Appeal_Final 20251014.pdf

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Dear Sir/Madam

Please find attached response to the Third Party Appeal as issued to us from An Coimisiún Pleanála ("Commission") dated 30th September 2025. The response also includes a request that the Commission dismisses the Appeal as frivolous, without substance or foundation, under section 138(1)(a)(i) of the Planning and Development Act, 2000, as amended ("2000 Act"). We refer to the *enclosed* Section 138 request for dismissal that has been prepared on behalf of the Applicant by Philip Lee LLP ("Dismissal Request").

We would appreciate if you could confirm receipt of this correspondence.

Regards

Sorcha

Sorcha Turnbull
Associate & Senior Planner

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**Brady Shipman
Martin.**

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An Coimisiún Pleanála
64 Marlborough St,
Dublin 1,
D01 V902

Date: 14th October 2025

Re: Response to Third Party Appeal on a Large Scale Residential Development Application at Lands at the former Holy Cross College, Clonliffe Road, Dublin 3 and Drumcondra Road Lower, Drumcondra, Dublin 9.
(ABP-323764-25; LRD6076/25-S3)

Dear Sir/Madam

On behalf of the Applicant, CWTC Multi-Family ICAV acting on behalf of its sub-fund DBTR DR1 Fund, we hereby provide a response to the single Third Party Appeal made by Ciaran Lynam and Anne Loughlin ("Appeal") in respect of a decision of Dublin City Council ("DCC") to grant permission for a proposed development at Lands at the former Holy Cross College, Clonliffe Road, Dublin 3 and Drumcondra Road Lower, Drumcondra, Dublin 9, as issued to us from An Coimisiún Pleanála ("Commission") dated 30th September 2025.

This First Party Response is being submitted on behalf of the Applicant without prejudice to the Applicant's primary request that the Commission dismisses the Appeal as frivolous, without substance or foundation, under section 138(1)(a)(i) of the Planning and Development Act, 2000, as amended ("2000 Act"). We refer to the *enclosed* Section 138 request for dismissal that has been prepared on behalf of the Applicant by Philip Lee LLP ("Dismissal Request").

To avoid any risk of unnecessary delay, this First Party Response is being submitted at the same time as the Dismissal Request. This First Party Response need only be considered by the Commission if it decides to refuse the Dismissal Request, and to deal with the Third Party Appeal under section 37 and Part VI, Chapter III of the 2000 Act. In which case, the Commission is requested to dispose of the Appeal as expeditiously as possible in accordance with section 126(1) and 126A of the 2000 Act.

Part V Costs Estimates

The Appeal claims that the estimated Part V costs were not submitted with the application, and that this constitutes either a breach of statutory obligation or negates the DCC validation letter. The Appeal claims that the Part V costs were not among the planning application documents on DCC's "planning portal" or in the public planning file in DCC's offices when inspected, and that it follows that the Part V estimated costs were not submitted. The Commission will see, however, that the application documents as submitted with the application to DCC included Part V estimated costs in the Part V Booklet.

We attach a copy of the Part V Booklet as was submitted on behalf of the Applicant to DCC as part of the LRD Application in accordance with Article 22(2)(e)(ii) of the Planning and Development Regulations, 2001, as amended ("PDR").

For LRD applications, the public are required to be informed through the newspaper and site notices that the application documents may be inspected at the planning offices or the dedicated LRD application website that the Applicant is required to create under Article 20A of the PDR. The Part V Booklet containing the cost estimates was and remains available for public

inspection on the dedicated LRD application website, at <https://holycrosscollegelrd.ie/> in accordance with section 26A of the 2000 Act.

Condition 20 of the decision of DCC to grant permission requires a Part V Agreement to be entered into with DCC in accordance with DCC's Housing Strategy, prior to the commencement of the proposed development. In determining the appeal, the Commission can only apply a condition in the same terms. The potential costs and other details relating to a Part V Agreement can only be ascertained post-planning when all relevant costs are known. This is reflected in the Part V statutory provisions and in the relevant guidance.

Given the limited scope of this single ground of appeal, based on a false factual premise, and that it raises no planning issues as regards the DCC decision to grant permission for the proposed development or the development itself, the Commission is requested to either dismiss the Appeal (per the Dismissal Request) or to dispose of it as expeditiously as possible in accordance with the 2000 Act.

LRD Opinion

The Appeal "notes" that the LRD Opinion was not placed by DCC on its "planning portal" until in or around 2 September 2025, however there is no stated ground of appeal, nor any reasons, considerations, or arguments related to this point stated in the Appeal. There are no discernible planning issues requiring a planning response in relation to this point. We therefore rely on the Dismissal Request as regards the extent of any obligation on DCC to make the LRD Opinion "public" under section 32D(2A) of the 2000 Act or otherwise.

Conclusion

It is respectfully suggested that the Appeal raises no planning grounds, considerations or arguments related to DCC's decision to grant permission or to the proposed development itself. The Appeal is confined to a single ground relating to the alleged lack of Part V costs details with the application, and does not seek any refusal or amendment of the proposed development as permitted by DCC, or any modification to the planning conditions attached by DCC. As such, the Commission is requested to dismiss the Appeal (per the Dismissal Request), which would in effect uphold the decision of DCC to grant planning permission for this significant housing development, subject to the 21 conditions in the decision to grant.

In the alternative, the Commission is requested to use its full powers under the 2000 Act and the PDR to dispose of the Appeal as expeditiously as possible, noting in particular the broad support for / low level of opposition to the proposed development during the planning process to date, and that the single Third Party Appeal raises a single "ground" of appeal premised on a factual misconception that the application lacked Part V costs estimates, when it did not.

We look forward to receiving the Commission's decision on the Appeal in due course.

Yours sincerely,



Pauline Byrne
Partner & Head of Planning
Brady Shipman Martin

An Coimisiún Pleanála
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(For inclusion with BSM First Party Response to Third Party Appeal)

14 October 2025

Our Ref: AW/LH/HIN003/0005

CWTC Multi-Family ICAV acting on behalf of its sub-fund DBTR DR1Fund ("Applicant")
Ref: LRD6076/25-S3 and ACP-323764-25

Dear Sir/Madam,

I advise the Applicant in relation to the application for permission for the proposed development of lands at the former Holy Cross College, Clonliffe Road, Dublin 3 and Drumcondra Road Lower, Drumcondra, Dublin 9 ("Application").

I refer to the single third party appeal stamped as received by An Coimisiún Pleanála ("Commission") on 29 September 2025, that was issued to Brady Shipman Martin ("BSM") planning consultants on 30 September 2025 ("Appeal").

The Appeal consists of a single stated ground of appeal alleging a lack of Part V cost estimates in the planning application. As the Commission will see when it reviews the planning application documents submitted to it by Dublin City Council ("DCC"), Part V cost estimates were, in fact, submitted by the Applicant with the application in the Part V Booklet.

The Commission is therefore entitled to exercise its discretion under **section 138(1)(a)(i)** of the Planning and Development Act, 2000, as amended ("2000 Act"), to dismiss the Appeal on the basis that the only stated ground of appeal is frivolous, or without substance or foundation, for the reasons and considerations as set out herein.

Part V Costs Estimates

The Part V Booklet submitted by the Applicant in accordance with its obligation under **Article 22(2)(e)(ii)** of the Planning and Development Regulations, 2001, as amended ("PDR") can be seen by the Commission when it reviews the planning file received from DCC pursuant to **section 128** of the 2000 Act. The Part V Booklet contains a schedule of costs estimates and calculations relating to the Part V component of the proposed development.

There is accordingly no factual substance or foundation to the claim underpinning the singular stated ground of Appeal. The Applicant did not fail to comply with the PDR, or with the DCC Validation Letter, as the Appeal incorrectly asserts.

Without prejudice to this, and purely for the avoidance of any doubt:

- In accordance with **Article 20A(2) and (3)** of the PDR, the Applicant created and continues to maintain public access to a dedicated LRD application website, www.holycrosscollegelrd.ie, at which all application documents (including Part V cost estimates in the Part V Booklet) were and remain available for public inspection.
- In accordance with **Article 18(1)(d)(vi) and (e)** and **Article 19** of the PDR, the newspaper notice and site notice invited the public to inspect the application at the dedicated LRD application website and at DCC's offices (see newspaper notice [MIS.09.EI.IS.037.PDF](#) and site notice [DUBLIN CITY COUNCIL](#)).

Additionally, there was high profile media coverage of the Part V cost estimates included with the application when it was submitted:

- [Hines puts price of more than €64m on sale of 113 apartments in Clonliffe scheme to council – The Irish Times](#)
- [Hines puts €64.5m price tag on Drumcondra apartment complex for sale to Dublin City Council | Irish Independent](#)

It is clear that DCC did not seek Part V cost estimates from the Applicant by way of further information request, and that the Commission has no need to request Part V cost estimates from the Applicant under **section 132** of the 2000 Act, because Part V cost estimates were included in the Part V Booklet submitted with the application.

The Commission is therefore entitled to dismiss this ground of appeal under **section 138(1)(a)(i)** of the 2000 Act, because it is frivolous, or without substance or foundation.

LRD Opinion

The Appeal ends with a quote from **section 32D(2A)** of the 2000 Act, and “notes” that the LRD Opinion was placed on “DCC’s planning portal” on the day that the decision to grant permission was made.

Section 127(1)(d) of the 2000 Act requires that an Appeal “*state in full the grounds of appeal or referral and the reasons, considerations and arguments on which they are based*”.

The Appeal fails to state any reasons, considerations or arguments in relation to the LRD Opinion, or the timing of DCC’s publication of it on DCC’s website. The Appeal fails to raise any “ground of appeal” from DCC’s decision to grant permission, or the 21 conditions attached thereto. This aspect of the Appeal fails to comply with the basic requirements for a valid appeal, as set out in **section 127(1)(d)** of the 2000 Act.

Without prejudice to this, and purely for the avoidance of any doubt:

1. **Section 32D(2A)** of the 2000 Act does not require that an LRD Opinion is made public specifically by the planning authority placing it on the planning authority’s website.
2. The LRD Opinion is not an application document, and it is not required to be published on the Applicant’s dedicated LRD application website, whether under **Article 20A(2) and (3)** of the PDR or any other provision of the 2000 Act or the PDR.

3. The LRD Opinion is not document of a type that is required to be placed on the planning authority's website, whether under **section 38(3)(b)** of the 2000 Act or any other provision of the 2000 Act or the PDR. **Article 27A** of the PDR only requires that planning authority's *list* LRD Opinions issued in weekly lists.
4. Under **section 32E** of the 2000 Act, the provision of an LRD Opinion expressly "*cannot be relied upon in the formal planning process or in legal proceedings*".

Therefore, not only does this aspect of the Appeal not constitute a valid "ground of appeal", insofar as the complaint alleges a failure of DCC to comply with its obligation to make the LRD Opinion public, it also lacks any legal substance or foundation.

The Commission is therefore entitled to dismiss the Appeal under **section 138(1)(a)(i)** of the 2000 Act, on the basis that it is frivolous, or without substance or foundation.

Request to dismiss the Appeal

The Applicant therefore hereby requests that the Commission satisfy itself that:

- Part V cost estimates were submitted with the application in the Part V Booklet, as required by **Article 22(2)(e)(ii)** PDR and the corresponding provisions of Part V of the 2000 Act and the relevant Part V Guidance, and
- there is no stated or substantive ground of appeal, contrary to **section 127(1)(d)** of the 2000 Act, related to the timing of the placement by DCC of the LRD Opinion on the DCC planning website.

The Commission is further requested to exercise its discretion to dismiss the Appeal under **section 138(1)(a)(i)** of the 2000 Act, on the basis that the Appeal is frivolous, or without substance or foundation, for the reasons and considerations as outlined above.

Yours sincerely,



Alice Whittaker
PHILIP LEE

