Our Case Number: ABP-315183-22

Planning Authority Reference Number: LRD6002/22S3

An Bord Pleanála

Kieran Kenny
26 Woodbine park
Raheny
Dublin
Dublin 5

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,

pp

David Behan
Executive Officer
Direct Line: 01-8737146

LRD40 Acknowledge valid observer submission

Teil	**Tel**	(01) 858 8100
Glao 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

Lodgement Cover Sheet - LDG-060164-22

LRD 40 to 315183 LRD 6002/22S3

An Bord Pleanála

Details

Lodgement Date	21/12/2022
Customer	Kieran Kenny
Lodgement Channel	Web Portal
Lodgement by Agent	No
Agent Name	
Correspondence Primarily Sent to	
Registered Post Reference	

Lodgement ID	LDG-060164-22
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-047045-22
Related Payment Details Record	PD-046935-22

Observation

	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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Run by: David Behan

	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

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PA Case Number	LRD6002/22S3
Development Description	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.

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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.foxlandslrd2022.ie.
Applicant	
Additional Supporting Items	Yes

AMN 21/12/2022

An Bord Pleanála

Planning Appeal Online Observation

Online Reference
NPA-OBS-001648

Online Observation Details

Contact Name
Kieran Kenny

Lodgement Date
21/12/2022 15:38:00

Case Number / Description
LRD Appeal by 'Raheny 3 Limited Partnership' against Dublin City Council Decision to Refuse Permission for Planning Reference LRD6002/22-S3

Payment Details

Payment Method	Cardholder Name	Payment Amount
Online Payment	Eimear Kenny	€50.00

Processing Section

S.131 Consideration Required

☐ Yes — P.T.O. ☐ N/A — Invalid

Signed _____ **Date** _____

EO

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

Date

EO

Signed

Date

SEO/SAO

M

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

To

Task No

Allow 2/3/4 weeks

BP

Signed

Date

EO

Signed

Date

AA

26 Woodbine Park

Raheny

Dublin 5

D05 AK16

Strategic Housing Division

An Bord Pleanala

64 Marlborough Street

Dublin 1

19th December 2022

Re: Observation on ABP Case Reference: LH29N.315183

Re: LRD Appeal by 'Raheny 3 Limited Partnership' against Dublin City Council Decision to Refuse Permission for Planning Reference LRD6002/22-S3

A Chara,

I am writing in relation to the above planning appeal submitted by 'Raheny 3 Limited Partnership' (AKA Marlet Property Group) regarding Dublin City Council's refusal of a large scale residential development and nursing home on park lands to the rear of St. Paul's College, Sybil Hill Road, at St. Anne's Park, Raheny, Dublin 5. To this end, I am lodging this observation with the requisite fee of €50.

I consider the following points are grounds to uphold Dublin City Council's decision to refuse planning permission for this scheme.

1. The planning application 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. The change of ownership from the Vincentian Order to the applicant does not change the zoned and established use.

2. Under the current 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.

3. Dublin City Council refused permission for LRD6002/22-S3 on the basis of the Precautionary Principle as the "proposed development would therefore materially

contravene policy GI23 three of the Dublin City Development Plan 2016 to 2022 for the protection of European sites".

4. The Z15 zoning previously applied to the lands (prior to 14/12/2022) was intended to protect the amenity and biodiversity use of St Pauls playing fields, but the strength of the zoning was undermined in an unforeseen way by a case taken by the Sisters of Charity against Dublin City Council [*Christian v. Dublin City Council (No. 1)* [2012] IEHC 163, [2012] 2 I.R. 506.] which forced an amendment to the Z15 zoning on religious and institutional lands to allow for "consideration of residential development". Subsequently, applications to build on Z15 lands in general and the St. Paul's lands in particular, have sought to utilise this 'open for consideration' clause to achieve Z1 type uses on lands that the City clearly intended to maintain for community and institutional uses. This cannot be permitted to continue.
It is notable that Dublin City Council, under the new City Development Plan, seek to protect both the letter and the spirit of the law in relation to Z15 zoning.

   I quote here from the CE's report no. 261/2-22 dated 21/0/2022, page 117

   "the Council have sought to strengthen the recognition and role of the city's Z15 land-bank under the Draft Plan by protecting, improving and encouraging the ongoing use and development of lands zoned Z15 in the Draft Plan for community and social infrastructure. The Council specifically recognises that institutional lands are an important community resource and should be preserved and protected as a strategic asset for the city."

5. Despite the recent efforts of the landowners to alienate the lands, they are an established part of St Anne's Park through public use and as evidenced on maps such as the 1971 Dublin Development Plan, the Dublin Street Atlas and Guide (4th ed) 2003, the OSI Dublin Street Map 2008 and the Dublin Bay Biosphere Map.

6. The proposed development does not retain or protect the existing sporting and amenity use of the lands and therefore the development is not in compliance with either the previous Z15 zoning under the 2016-2022 City Development Plan, nor the current Z9 zoning under the 2022-2028 City Development Plan. I vehemently objected to the original proposal on these grounds and have set out the reasons for this which were included in my original submission below.

Reasons why I believe this proposal does not meet the Z15 zoning requirements

As noted above, I vehemently objected in the strongest possible terms to the proposal to build 580 apartments, residential tenant amenity spaces, a creche and a 100 bed nursing home on the St. Paul's playing fields at St. Anne's and I object to the appeal on the same grounds.

This land is zoned as Z15 land. The zoning objective of Z15 land is 'to protect and provide for institutional and community uses'. Z15 specifies that *'where there is an existing institutional and/or community use, any proposed development for 'open for consideration' uses on part of the landholding, shall be required to demonstrate to the planning authority how the proposal is in accordance with and assists in securing the aims of the zoning the zoning objective; how it secures the retention of the main institutional and community uses on the lands, including space for any necessary expansion of such uses; how it secures the retention of existing functional open space e.g. school playing fields; and the manner*

in which the nature and scale of the proposal integrates with the surrounding lands'. This proposal does not meet these criteria.

As a former P.E. teacher, employed in St. Paul's College for 36 years, from 1976 - 2012, I perhaps more than anybody else, have seen the value that these playing pitches have brought to the local community.

Let me briefly outline to you the educational value of the playing pitches to 650 pupils of St. Paul's College on a weekly basis. I, along with the other 2 P.E. teachers taught classes on these pitches every day, Monday - Friday. Every class in the college had 3 40 minute classes of PE per week, apart from the exam years, Junior Cert. and Leaving Cert, who had 2 40 minute classes. The PE programme consisted of outdoor games - rugby, soccer, Gaelic football, hurling, rounders and cricket. Up to 3 classes at a time were taught the skills of these various sports over the duration of their six years in St. Paul's.

In the month of April, a 400m running track was laid on the pitches and all the track and field events were practiced, culminating in a Sports Day at the end of May, with a full programme of inter-class events. This included Track events: 100m, 200m, 400m, 800m, 1500m; 4x 100m relay and Field events: Shot, javelin, discus, long-jump, high-jump, pole vault. Novelty events included target golf, long poc, tug-of-war, penalty shoot-out, slalom dribble and three legged-race. Cross country, as well as orienteering events, were also an integral part of the P.E. programme. The extra-curricular sports programme was primarily rugby orientated, with 12 to 14 teams in the College on an annual basis. Training was Mondays and Thursdays, with games on Wednesday afternoons and Saturday mornings. Training for soccer also took place with games on Wednesdays and Saturdays. Gaelic football was coached and played in the months of April and May. The pitches were also the venue for rugby and soccer matches involving teams from Wales, Italy, Spain, Bulgaria and Northern Ireland as part of the Comenius project. Also St. Paul's hosted teams from Canada, Argentina, England and Scotland over the years.

The St. Paul's rugby tour to South Africa in 1995, resulted from the cross-border initiative 'Co-operation North'. St. Paul's were twinned with Grosvenor Grammar School in East Belfast. Rugby matches as well as many other inter-school activities took place over a number of years. On the rugby pitch, friendships were formed and a rugby tour to South Africa took place in 1995, with 2 mixed Protestant and Catholic teams playing 14 matches over 3 weeks.

In recent years, Clontarf GAA have used the pitches extensively at the weekends with up to 600 young boys and girls being coached in Gaelic football, hurling and camogie.

From the above outline of activities, it is very clear to see the opportunities and benefits they offer the pupils of the college and the local community. This intrinsic value cannot be quantified in Junior Cert grades or Leaving Cert. points. It is unique to each individual. It may be a goal scored or prevented, a tackle made or missed, a race won or lost but it is on these same pitches that those opportunities were afforded and these character-building traits were forged.

The one playing pitch that has been left for the use of St. Paul's College does not provide sufficient space for a school of that size to operate a P.E. Programme of the type that I have described.

The proposed development does not in any way, shape or form provide anywhere near the same benefit to the community as the playing pitches have provided prior to their sale to the developer.

The sale of the land to a private developer has not changed the purpose for which they are zoned. As outlined in his judgement issued on 7th May 2021, Judge Humphreys clearly addressed the issue of land ownership and the fact that *'a change in ownership does not in itself alter the interest to be protected by the zoning'*. Judge Humphreys noted that *'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 noted above, up until it was sold to the developer, this land was used as school playing fields and the playing fields were also used by broader community groups. There is no evidence to suggest that the demand for this land to be used in this manner has abated in the time since the land was sold or that it would not be required for this use in the future. It just has not been possible to use it for this purpose since the sale of the land to the developer, as the developer has not allowed or facilitated it. However, this in itself does not the change the need that the Community has for function open spaces.

Our open spaces are a finite resource within our city. Once they are gone, they cannot be replaced. While we can change the zoning of different parts of our city, the reality is that once housing is built, the open space on which it is built is gone forever. In a world where the environment is increasingly under threat, where our young people are spending more and more time on-line and on electronic devices and where obesity has become more and more prevalent, we need to do everything that we can to protect the open spaces that we have so that we can continue to facilitate and encourage sport, exercise, physical and mental health, time spent outside in the fresh air, time spent fostering friendships with team-mates and time spent cheering on friends and family.

Residential use may be an 'Open for Consideration' use for Z15 land but it is not a listed as a 'Permissible Use'. On this occasion, for the lands in question, it is absolutely not appropriate for this proposal to be granted. It is in essence a large-scale residential development with a minimal number of nursing home beds and creche included with the sole purpose of trying to justify building this large-scale development on Z15 lands. In particular, the proposal does not secure the retention of existing functional open space and does not allow for expansion of community and institutional uses. The development is not in accordance with the principles of Z15 which is clear from the fact that all local Dublin City Councillors oppose the development.

This is a hugely important decision that will impact the current generation and generations to come. To allow development of any kind on these pitches is a decision that is irreversible. It would be, in my view, a most serious error of judgement. A generation of pupils to come

should not be denied the same facilities afforded to their parents, namely space to run, jump and play with all its inherent benefits.

Kind regards,

Kieran Kenny

Retired P.E.teacher of 36 years at St. Paul's College