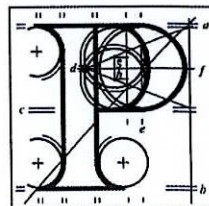


Our Case Number: ABP-317164-23

Your Reference: Kathleen McKee



**An
Bord
Pleanála**

Fagan Bergin Solicitors
57 Parnell Square West
Dublin
Dublin 1
D01 FK24

Date: 20 July 2023

Re: Swords to City Centre Core Bus Corridor Scheme, Compulsory Purchase Order 2023
Swords to Dublin City Centre

Dear Sir / Madam,

An Bord Pleanála has received your recent submission (including your fee of €50) in relation to the above-mentioned proposed road development and will take it into consideration in its determination of the matter.

Please note that the proposed road development shall not be carried out unless the Board has approved it or approved it with modifications.

If you have any queries in the mean time, 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,

Sarah Caulfield
Executive Officer
Direct Line: 01-8737287

HA02

Teil
Glaao Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost

Tel
LoCall
Fax
Website
Email

(01) 858 8100
1800 275 175
(01) 872 2684
www.pleanala.ie
bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

An Bord Pleanála
64 Marlborough St,
Rotunda
Dublin 1
By Hand

OUR REF:
MB/MCK032-0001/15674

YOUR REF:

DATE:
18th July 2023

RE: **Notice of Making of Compulsory Purchase Order
Swords to City Centre Core Bus Corridor Scheme Compulsory Purchase Order 2023
Plot List 1133(1) 1d and 1133(2) 2d**

Dear Sir/Madam,


We act for Ms. Kathleen McKee of 300 Swords Road, Dublin 9, D09 TH61 who is affected by the above notice, both in relation to lands proposed to be permanently acquired and those proposed to be temporarily acquired. Ms. Kathleen McKee is the registered owner of the lands and premises comprised in folio 55324F County Dublin.

We enclose herewith by way of service on you objection lodged on behalf of our client.

We are also enclosing a cheque in your favour in the sum of €50.00 fee herein is enclosed herewith.

We would be obliged if you would formally acknowledge receipt of the attached objection document.

Yours faithfully,


FAGAN BERGIN
SOLICITORS
Encls.

AN BORD PLEANÁLA	
LDG-	065142-23
ABP-	317121 + 317164-23
18 JUL 2023	
Fee: €	50 Type. CHA
Time:	14:55 P. HAND

OBJECTION TO NOTICE OF MAKING OF COMPULSORY PURCHASE ORDER UNDER SECTION 76 OF AND THE THIRD SCHEDULE TO THE HOUSING ACT, 1966 AS EXTENDED BY SECTION 10 OF THE LOCAL GOVERNMENT (NO.2) ACT, 1960 (SUBSTITUTED BY SECTION 86 OF THE HOUSING ACT 1966) AS AMENDED AND BY THE PLANNING AND DEVELOPMENT ACT 2000 (AS AMENDED) AND UNDER SECTION 213 OF THE PLANNING AND DEVELOPMENT ACT 2000 (AS AMENDED) SECTION 184 OF THE LOCAL GOVERNMENT ACT 2001 AND SECTION 44 OF THE DUBLIN TRANSPORT ACT 2008 (AS AMENDED)

TO: AN BORD PLEANALA
64 MARLBORO ST
DUBLIN 1

NATIONAL TRANSPORT AUTHORITY
DÚN SÉINE
HARCOURT LANE
DUBLIN 2 D02 WT20

PART A:

Take notice that on behalf of the objector listed in the Schedule hereto, we make objection to the Notice of Making of Compulsory Purchase Order entitled;

“ National Transport Authority

Form of Notice of the making of a Compulsory Purchase Order under Section 76 of and the Third Schedule to the Housing Act, 1966, as extended by Section 10 of the Local Government (No.2) Act, 1960 to be served on the owners, lessees and occupiers in accordance with Article 4(b) of the Third Schedule to the Housing Act, 1966, as amended by the Planning and Development Act, 2000 (as amended) **and under section 213 of the Planning and Development Act 2000 (as amended)**

Section 184 of the Local Government Act 2001 and section 44 of the Dublin Transport Act 2008 (as amended)

Compulsory Acquisition of Land

Swords to City Centre Core Bus Corridor Scheme Compulsory Purchase Order 2023”

hereinafter referred to as “the Notice “.

And further take notice that in order to fully consider the said Notice of the making of a Compulsory Purchase Order and to fully set out the grounds of objection, the Objector hereby requests the following information.

1. With reference to the Notice of the Compulsory Purchase Order and with reference to Section 76 of the Housing Act, 1966, as amended, please identify each and every purpose or objective of National Transport Authority for which the intended Compulsory Purchase Order is made.
2. Please identify each and every purpose or objective of the Housing Act 1966, for which the Compulsory Purchase Order is made by reference to the appropriate section or sections of the Housing Act, 1966.

3. With reference to Section 10 of the Local Government (No.2) Act, 1960 (substituted by s86 of the Housing Act 1966), please identify all the purposes for and or objectives for which the National Transport Authority intends to compulsorily acquire the lands referred to in the Notice and set out in the Schedule, Part 1 and Part 2 thereto and hereinafter referred to as "the Lands", and please indicate whether or not those purposes consist wholly or in part of purposes other than the purposes of the Housing Act 1966 and, if so, please identify the said purposes and please further identify the relevant statute and/or Statutory Provisions and/or basis upon which it is alleged the National Transport Authority is authorised to pursue the said purchase.
4. Further with reference to the Notice and with reference to the Planning and Development Acts, 2000 (as amended) please indicate whether or not the said intended Compulsory Purchase Order is being made for the purposes of performing any of the National Transport Authority's functions under the Planning and Development Act, 2000 (as amended) and, if so, please identify the said function and further please identify the relevant section(s) of the Planning and Development Act, 2000(as amended) and which authorises The National Transport Authority to perform the said function and/or to compulsorily acquire the Lands in pursuance thereof.
5. Further with reference to the Notice and with reference to S 213 of the Planning and Development Act 2000(as amended) , please identify each and every purpose or objective of the said Act for which the Compulsory Purchase Order is made by reference to the appropriate section or sections of same.
6. Further with reference to the Notice and with reference to Section 184 of the Local Government Act 2001 , please identify each and every purpose or objective of the said Act for which the Compulsory Purchase Order is made by reference to the appropriate section or sections of same.
7. Further with reference to the Notice and with reference to Section 44 of the Dublin Transport Act 2008 (as amended) please indicate whether or not the said intended Compulsory Purchase Order is being made for the purposes of performing any of functions of the National Transport Authority under the Dublin Transport Act 2008 (as amended) and further please identify the relevant section or sections of the same which authorises The National Transport Authority to perform the said function and/or to compulsorily acquire the Lands in pursuant thereof.
8. With reference to Paragraph 2 of the Notice please indicate the basis upon which it is alleged that the extinguishment/restriction of the public rights of way described therein in the Notice is within the powers, functions, objectives and duties of The National Transport Authority as laid down by Statute, by reference to the relevant Statute/Statutory Provision.
9. With reference to Paragraph 2 of the Notice, please indicate the precise details of the proposed construction works for the Swords to City Centre Core Bus Corridor Scheme as referred to.
10. With reference to Paragraph 2 of the Notice, please indicate the precise details of the proposed ancillary and consequential works for Swords to City Centre Core Bus Corridor Scheme the as referred to.
11. With reference to Paragraph 2 of the Notice Please indicate the precise development of the Lands to which reference is made and which the said intended Compulsory Purchase Order is intended to permit.

And further take notice that we hereby request an extension of time for the furnishing of grounds of objection to the said compulsory acquisition pending the receipt of replies to the above query.

Part B:

Please take notice that the replies to the above queries are necessary to enable the objectors to properly consider and formulate grounds of objection to the said Notice. However without prejudice to what is stated above, please note that the preliminary grounds of objection to the said Notice to the Compulsory Purchase Order in respect of the Lands are as follows:

1. The Notice is invalid for failure to properly or at all to specify the purposes which they are intended to pursue and the relevant Statutory Provision.
2. The National Transport Authority has acted ultra vires its powers under the Housing Act, 1966, the Local Government (No.2) Act, 1960 the Planning and Development Act, 2000 **(as amended) the Local Government Act 2001 and the Dublin Transport Act 2008 (as amended)** in purporting to issue the said Notice of the making of a Compulsory Purchase Order in respect of the Lands.
3. The National Transport Authority has acted ultra vires its powers in making a decision to issue the said Notice of the making of the Compulsory Purchase Order.
4. The National Transport Authority has acted in abuse of its powers in issuing said Notice of the making of a Compulsory Purchase Order.
5. The purported decision of The National Transport Authority to issue the said Notice of making of a Compulsory Purchase Order is unreasonable and/or irrational and is therefore, ultra vires.
6. The National Transport Authority has acted in breach of the constitutional rights of the landowners, and the objector in purporting to issue the said Notice of the making of a Compulsory Purchase Order.
7. The National Transport Authority has failed to consider the reasonable interests of the landowners and the objector, in purporting to make the said Notice.
8. The National Transport Authority has failed to act in accordance with the principles of basic fairness of procedures and natural/constitutional justice.
9. The National Transport Authority has failed to adequately or at all to consider the possibility of achieving the purposes set out in Paragraph No.2 of the Notice by other means.
10. The use of compulsory acquisition powers by The National Transport Authority for the purposes set out at Paragraph No.2 of the Notice is not an objective of the The National Transport Authority .
11. Further and without prejudice to the foregoing the Notice is unnecessary and/or premature and/or oppressive in circumstances where the potential of a private bargaining process has not been fully explored or addressed and is being interfered with.

12. Further and without prejudice to the foregoing, the acquisition of the land by The National Transport Authority is unfair and premature.
13. The objector further wishes to make the following observations/submissions in relation to the implications of the proposed development for the proper planning and sustainable development of the area in which the lands are situate, and the likely effects on the environment of the proposed development, if carried out.
 - (i) Construction activities on the site are likely to lead to considerable increased traffic volumes and noise. I
 - (ii) Private transport in the area will increase and take significantly longer to pass through the area causing extra harmful emissions and hazard.
 - (iii) The health effects associated with living in close proximity to the proposed development have not been adequately or properly assessed.
14. The potential impact of the presence and operation of the development as envisaged would have a significant impact on the community in the vicinity of the site in terms of, health, security, general amenity and property values.
15. The potential impact of the disruption during the construction stage has not been addressed properly or at all.
16. The potential impact of the disruption, to include but not limited to access to property which will ensue on the temporary acquisition of lands for ancillary and consequential works during the construction stage has not been addressed properly or at all
17. The potential impact of the disruption which will ensue on the temporary acquisition of lands for ancillary and consequential works during the construction stage has not been addressed properly or at all.
18. The potential impact of the proposed in terms of and long-term impact to climate change has not been properly or adequately assessed.
19. The proposed development will result in a negative visual impact for residential property owners and road users.
20. The proposed Swords to City Centre Core Bus Corridor Scheme will result in increased traffic congestion and operational problems on the road networks. The potential impact of the proposed development on the surrounding road network has not been properly or adequately assessed.

Schedule of Objectors

Kathleen McKee 300 Swords Road Dublin 9 D09 TH61 owner of the property at 300 Swords Road Dublin 9 D09 TH61 reference number on NTA Map as deposited with CPO Notice 1132(1).1d (Lands Being Permanently Acquired) and 1132 (2).2d (Lands Being Temporarily Acquired).("The Lands")being comprised in Folio DN55324F.

AND FURTHER TAKE NOTICE that we reserve the right to furnish further grounds of objection and to expand on grounds of objection at any time, whether in writing or at the oral/public hearing

AND FURTHER TAKE NOTICE that we hereby request that An Bord Pleanála exercise its discretion and cause to be held a public local enquiry/ oral hearing into these objections pursuant to Article 5(2) of the Housing Act 1966 as amended and pursuant to Section 218 of the Planning and Development Act 2000.

Dated the 18th day of July 2023

Signed

Fagan Bergin
Solicitors
57 Parnell Square West,
Dublin 1

Land Registry

County Dublin

Folio 55324F

Part 3 - Burdens and Notices of Burdens

No.	Particulars
001	12-MAY-1983 85DN03637 THE PROPERTY IS SUBJECT TO THE PROVISIONS SPECIFIED IN SECTION 90 (6) OF THE HOUSING ACT 1966 AS AMENDED BY SECTION 26 OF THE LANDLORD AND TENANT (GROUND RENTS) (NO 2) ACT 1978 AGAINST ALIENATION, MORTGAGING AND CHARGING WITHOUT THE CONSENT OF THE LORD MAYOR ALDERMEN AND BURGESSES OF DUBLIN AND TO THE CONDITIONS RIGHTS AND EASEMENTS SPECIFIED IN 85DN03637. NOTE: CANCELLED 19/08/1997, 97DN19396
002	19-AUG-1997 85DN03637 THE PROPERTY IS SUBJECT TO THE CONDITIONS RELATING TO USE AND ENJOYMENT THEREOF (IF ANY) SPECIFIED IN INSTRUMENT NO. 85DN03637

Land Registry

County Dublin

Folio 55324F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965	
001	12-MAY-1983 85DN03637	JOSEPH MC KEE 300 SWORDS ROAD, DUBLIN IS FULL OWNER
002	20-FEB-1989 89DN03061	DOROTHY MC KEE (WIDOW) 300 SWORDS ROAD, DUBLIN IS LIMITED OWNER
003	19-AUG-1997 97DN19396	KATHLEEN MC KEE 300 SWORDS ROAD, DUBLIN IS FULL OWNER
Land Cert Req No.: 97LC5576 Date: 26-SEP-1997 Issued to: TANHAM HAWTHORNE & CO, SOLRS., 27, UPPER MOUNT STREET, DUBLIN 2. Address:		

Land Registry

County Dublin

Folio 55324F

Part 1(B) - Property
Parts Transferred

[illegible]

Land Registry

County Dublin

Folio 55324F

Register of Ownership of Freehold Land

Part 1(A) - The Property

For parts transferred see Part 1(B)

No.	Description	Official Notes
1	PLANS :A83L OS REFERENCE :3132/11 THE PROPERTY SITUATE ON THE EAST SIDE OF SWORDS ROAD, PARISH OF SANTRY AND DISTRICT OF CLONTURK. THE REGISTRATION DOES NOT EXTEND TO MINES AND MINERALS	FROM FOLIO 15192

File Plan Issued: Yes

Page 1 of 4

Land Cert Issued: Yes

Collection No.: