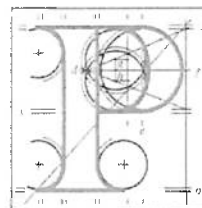


Our Case Number: ABP-317660-23



**An
Bord
Pleanála**

Religious Sisters of Charity
c/o Sr Patricia Lenihan RSC
Generalate, Caritas
15 Gilford Road
Sandymount
Dublin 4
D04 X337

Date: 04 December 2023

Re: Busconnects Kimmage to city centre core bus corridor scheme
Kimmage, Dublin

Dear Sir / Madam,

An Bord Pleanála has received your recent submission 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.

The Board has also received an application for confirmation of a compulsory purchase order which relates to this proposed road development. The Board has absolute discretion to hold an oral hearing in respect of any application before it, in accordance with section 218 of the Planning and Development Act 2000, as amended. Accordingly, the Board will inform you in due course on this matter. The Board shall also make a decision on both applications at the same time.

If you have any queries in relation to this matter please contact the undersigned officer of the Board at laps@pleanala.ie

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,



Eimear Reilly
Executive Officer
Direct Line: 01-8737184

HA02A

Tel	Tel	(01) 858 8100
Glaos 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

Teil
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D01 V902



RELIGIOUS SISTERS OF CHARITY

GENERALATE, Caritas, 15 Gilford Road, Sandymount, Dublin. DO4 X337

The Secretary.
An Bord Pléanala,
64 Marlborough Street,
Dublin 1.
D01 V902
(By Registered post)

AN BORD PLEANÁLA	
LDG- _____	
ABP- _____	
04 DEC 2023	
Fee: € _____	Type: _____
Time: _____	By: <i>Reg Pol</i>

1st December 2023

Re: Observation in relation to The Kimmage to City Centre Core Bus Corridor Scheme (ABP.REF. 317660) and associated Compulsory Purchase Order: Plot References 1019 (1).1a; 1019(2).1f; 1019(3).2a; 1019(4).2f

Dear Sir/Madam

We refer to NTA letters dated the 27th of July 2023 to Sr. Theresa Kennedy and Sr Úna O'Neill together with the enclosed draft CPO Schedules and Map (See Appendix A) in relation to the subject scheme and the associated Compulsory Purchase Order and hereby wish to make the following submission.

1. Draft CPO Schedule

Sister Theresa Kennedy and Sister Una O' Neill are incorrectly stated on the CPO schedule as being "Owners or Reputed Owners". Please note that the Religious Sisters of Charity (the Congregation) conveyed their fee simple interest in the subject plots to Our Lady's Hospice Limited by indenture dated the 20th of December 2002, subject to the reservation of extensive rights and easements including:

- The free and interrupted passage of the utilities through or to the property.
- The full and free right to enter upon the property, for the purpose of connecting, laying, inspecting, repairing, cleaning, replacing and renewing of utilities or conduits.

- All other easements or other rights etc. to the adjoining or neighbouring property.
- Full and free right, liberty or license at all times and for all purposes, whether on foot or by vehicles to pass re-pass over along the property.

The above rights are reserved in favour of the Religious Sisters of Charity for the benefit of the Congregation's properties within Our Lady's Hospice campus and which are identified on the map below.

2. RSC Property at our Lady's Hospice Campus.

The Congregation's property within Our Lady's Hospice campus is lined in red on the map below and comprises the Mary Aikenhead Heritage Centre, the Provincialate, two community houses and adjoining lands on sites totalling 3.0 ha. The congregation shares the use of the campus avenue with Our Lady's Hospice and Focus Housing Association.



3. Proposed Scheme Works and CPO.

NTA is seeking An Bord Pleanála's confirmation to acquire the key frontage, gates, avenue and roadside plot shaded yellow on the above map. The acquisition includes the only access to the highly sensitive, busy healthcare, residential and institutional campus.

We note from the NTA documentation available that the scheme works on the proposed CPO plots (shaded yellow on map above) are as follows:

- Plot 1019 (1).1a, Plot 1019(3).2a
Acquisition of the sole entrance and gate to the 9.5 hectare Our Lady's Hospice campus and the severance and acquisition of that portion of the avenue serving the entire campus and connecting to Harold's Cross Road.
- Plot 1019(2).1f, Plot 1019(4).2f
Acquisition of a plot of ground immediately to the west of the entrance for the development of a construction compound for a 15-month period during the works and thereafter for development of a 22-space carpark for the use of the third parties who have lost the opportunity to park in 10 "on street" spaces on Harold's Cross Road as a result of the scheme.

NTA appears not to have considered, nor has provided any information on key aspects of the scheme which will impact the Congregation's occupation of its properties including failure to provide any information on crucial issues over property which the Congregation has extensive legal rights including the free and uninterrupted passage for access utilities, services etc.

No information has been provided on the following:

- Provision for new entrance gates to the campus and control and management thereof.
- Proposals for maintenance, repair, control of acquired avenue.
- Proposals for the management and security of access to the highly sensitive and intensively used healthcare, residential and institutional campus following the acquisition of the sole access.
- Proposed management, maintenance, security, operation, allocation, control etc. of the 22 car parking spaces to be constructed plots Plot 1019(2).1f, Plot 1019(4).2f to be provided for unconnected private third parties.

4. Impact of Proposed Scheme Works and CPO.

The proposed CPO acquisitions and temporary and permanent works will give rise to a significant negative short to long term impacts on the Congregation's occupation of its various properties in addition to significant negative impacts on the operation of Our Lady's Hospice and the adjoining Focus Housing Association development.

The negative impacts fall into 2 categories viz:

- Traffic and access disruption and health & safety risks during the scheme works on the CPO plots which will be further compounded by the use of the Plots 1019(2).1f, Plot 1019(4).2f as a busy construction compound immediately adjoining the only entrance on the campus for at least 15 months.
- Loss of control of the sole access to the highly sensitive 9.5 ha campus and the development of a car park (22 spaces) immediately adjoining the campus access for parking of unconnected third-party individuals.

Chapter 10 of the EIAR refers to traffic and access disruption to the campus vis- a vis.

“Notably one of the areas where major works and disruption to traffic affected along R137 Harold’s Cross Road would affect the access road to Our Lady’s Hospice”.

Whilst acknowledging, but underestimating, the impacts on access to the campus the EIAR has failed entirely to identify the very significant risk and threats arising due to the loss of control of the sole access to this highly sensitive campus and the introduction of unconnected third-party private users on to the heretofore self-contained site.

Further to the above it is submitted that the proposed scheme will have very significant short, medium, and long term negative impacts on the Congregation’s extensive residential, administrative and heritage properties on 3.0 ha. within the hospice campus.

5. Local and National Planning Objectives

The proposed scheme is contrary to Dublin City Council and national planning policy and in particular objectives to shift car dependency to public transport as the scheme reinforces car usage with the development of a 22-space car park for the provision of parking for private individuals who will not have access to 10 “on street” car parking due to the proposed introduction of cycle lanes along Harold’s Cross Road.

6. Unlawful Acquisition

Articles 40 & 43 of the Constitution of Ireland protect property rights. Provisions for the compulsory acquisition of property are provided by statute and have been interpreted by the Courts which have referenced “the Proportionality Test” to determine the constitutionality of a CPO.

The balancing of “the common good over the” “individual” is the first hurdle in determining whether a CPO constitutes a disproportionate interference with

property rights or an unjust attack on same. (Source: Law Reform Commission-Issues Paper: Compulsory Acquisition of Land – LRC IP-13 2017)

It is submitted that the compulsory acquisition of land over which the Congregation has the benefit of free and full liberty of access, rights of way, easements etc. and which includes the sole access to a major healthcare, residential and institutional campus of 9.5 ha. for the development of a construction of a 0.0683 ha. compound and thereafter a 22 space carpark (for the use of private individuals) which will cause very significant short to long term negative impacts on the occupiers of the campus (the Congregation, Our Lady's Hospice Ltd and Focus Housing Association) is a disproportionate interference with property rights and is therefore unlawful..


It is submitted that the proposed compulsory acquisition of these key plots within the campus does not meet the four-part Proportionality Test which must be satisfied in order for it to be considered constitutional, as determined by the Courts and therefore it is an unjust attack on the rights of the Congregation as laid out in Articles 40 & 43 of the Constitution of Ireland.

Concluding Submission

Further to the above, we respectfully request that if an Bord Pléanala decides to approve the subject scheme and CPO it should only do so with "modifications" having removed the proposed acquisition of Plot 1091 (1).1a, Plot 1019(2).1f, Plot 1019(3).2a Plot 1019(4).2f from the proposed Kimmage to City Centre Core Bus Corridor Scheme Compulsory Purchase Order 2023.

We trust that you can give the Congregation's submission favourable consideration and we shall await hearing from you in due course.

Yours faithfully,



Sr Patricia Lenihan RSC
Congregational Leader

Appendix A

Kimmage to City Centre Core Bus Corridor Scheme Compulsory Purchase Order 2023
Schedules & Maps of Lands being acquired; Plots: 1019 (1).1a; 1019(2).1f; 1019(3).2a; 1019(4).2f

SCHEDULE

PART I

Lands Being Permanently Acquired

Land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense number on map deposited at NTA	Quantity, Description, and situation of land	Owners or Reputed Owners	Lessees or Reputed Lessees	Occupiers
019(1).1a (cont'd)	<p>0.05938 593.8 Access Road Dublin Entrance to Our Lady's Hospice, Harolds Cross Road, Dublin 6W, D6W RY72</p>	<p>Theresa Kennedy, Sisters of Charity Caritas, Saint Mary's, 15 Gilford Road, Dublin 4, D04 X337</p> <p>Una Mary O'Neill, Sisters Of Charity Caritas, Saint Mary's, 15 Gilford Road, Dublin 4, D04 X337</p>		<p>Electricity Supply Board, ESB Head Office, 27 Fitzwilliam Street Lower, Dublin 2, D02KT92</p> <p>Ervia, Colvill House, 24-26 Talbot Street, Dublin 1, D01NP86</p> <p>Focus Housing Association CLG, 9-12 High Street, Dublin 8, D08 E1W0</p>

SCHEDULE

PART I

Lands Being Permanently Acquired

Land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense number on map deposited at NTA	Quantity, Description, and situation of land	Owners or Reputed Owners	Lessees or Reputed Lessees	Occupiers
119(2).1f cont'd	<p>0.06823 682.3 Recreational Dublin Entrance to Our Ladys Hospice, Harolds Cross Road, Dublin 6W, D6W RY72</p>	<p>Theresa Kennedy, Sisters of Charity Caritas, Saint Mary's, 15 Gilford Road, Dublin 4, D04 X337</p> <p>Una Mary O'Neill, Sisters Of Charity Caritas, Saint Mary's, 15 Gilford Road, Dublin 4, D04 X337</p>		<p>Electricity Supply Board, ESB Head Office, 27 Fitzwilliam Street Lower, Dublin 2, D02KT92</p> <p>Ervia, Colvill House, 24-26 Talbot Street, Dublin 1, D01NP86</p> <p>Focus Housing Association CLG, 9-12 High Street, Dublin 8, D08 E1W0</p>

SCHEDULE

PART II

Lands Being Temporarily Acquired

Land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense	Quantity, Description, and situation of land	Owners or Reputed Owners	Lessees or Reputed Lessees	Occupiers
Number on map deposited at NTA 019(3).2a	<p>0.00252 25.2 Access Road Dublin Entrance to Our Ladys Hospice, Harolds Cross Road, Dublin 6W, D6W RY72</p>	<p>Our Ladys Hospice & Care Services (Our Ladys Hospice Ltd.), Our Lady's Hospice, Harold's Cross Road, Dublin 6W, D6W RY72</p> <p>Theresa Kennedy, Sisters of Charity Caritas, Saint Mary's, 15 Gilford Road, Dublin 4, D04 X337</p> <p>Una Mary O'Neill, Sisters Of Charity Caritas, Saint Mary's, 15 Gilford Road, Dublin 4, D04 X337</p>	<p>Age Action Ireland Ltd., 30/31 Camden Street Lower, Dublin 2, D02EC96</p>	<p>Anne O'Flaherty, 28 Greenmount Close, Dublin 6W, D6WK V12</p> <p>Electricity Supply Board, ESB Head Office, 27 Fitzwilliam Street Lower, Dublin 2, D02KT92</p> <p>Ervia, Colvill House, 24-26 Talbot Street, Dublin 1, D01NP86</p>

SCHEDULE

PART II

Lands Being Temporarily Acquired

Land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense	Quantity, Description, and situation of land	Owners or Reputed Owners	Lessees or Reputed Lessees	Occupiers
Number on map deposited at NTA 019(4)2f	Area (Ha): 0.00333 Area (m ²): 33.3 Description: Recreational County: Dublin Address: Entrance to Our Ladys Hospice, Harolds Cross Road, Dublin 6W, D6W RY72	Our Ladys Hospice & Care Services (Our Ladys Hospice Ltd.), Our Lady's Hospice, Harold's Cross Road, Dublin 6W, D6W RY72 Theresa Kennedy, Sisters of Charity Caritas, Saint Mary's, 15 Gilford Road, Dublin 4, D04 X337 Una Mary O'Neill, Sisters Of Charity Caritas, Saint Mary's, 15 Gilford Road, Dublin 4, D04 X337	Age Action Ireland Ltd., 30/31 Camden Street Lower, Dublin 2, D02EC96	Anne O'Flaherty, 28 Greenmount Close, Dublin 6W, D6WK V12 Electricity Supply Board, ESB Head Office, 27 Fitzwilliam Street Lower, Dublin 2, D02KT92 Ervia, Colvill House, 24-26 Talbot Street, Dublin 1, D01NP86

714876_73240



O.S. Ref: 3283-24

714716_732019

Legend:

- 1001(1) 31 LANDS BEING PERMANENTLY ACQUIRED*
*SCHEDULE PART I (Shaded in Grey)
- 1001(2) 30 LANDS BEING TEMPORARILY ACQUIRED**
**SCHEDULE PART II (Shaded in Grey)

- 1019(2) 21 Public rights of way to be extinguished or otherwise altered in the SCHEDULE PART II (Section A)
- 1019(2) 22 Public rights of way to be reserved or otherwise preserved in the SCHEDULE PART II (Section B)
- 1019(2) 23 Public rights to be reserved or otherwise preserved in the SCHEDULE PART IV (Section A)
- 1019(2) 24 Public rights to be reserved or otherwise preserved in the SCHEDULE PART IV (Section B)

- 1019(2) 25 Public rights to be reserved or otherwise preserved in the SCHEDULE PART IV (Section B)
- 1019(2) 26 Public rights to be reserved or otherwise preserved in the SCHEDULE PART IV (Section C)

**Kimimage to City Centre
Core Bus Corridor Scheme
Compulsory Purchase Order 2023**
Land Acquisition Map

File	Date	Description
1001(1) 31	2023-08-15	FOR R. ANNING JPK. DESIGN
1001(2) 30	2023-08-15	FOR R. ANNING JPK. DESIGN

Lands to be Compulsorily Acquired Server Map

For more information, visit page 10 of the map or visit the NTA website.

Drawing ID	File Name	Author	Checked On	Scale	Version	Approved Date	Drawn By
1001(1) 31	1001(1) 31	ALJ	2023-08-15	1:1000	1.0000	2023-08-15	ALJ
1001(2) 30	1001(2) 30	ALJ	2023-08-15	1:1000	1.0000	2023-08-15	ALJ