Colm McGovern Solicitors

(Incorporating Mel Kilrane & Co.)

Main Street, Bailieborough. Co. Cavan. A82 E7P3

Tel.: 042 966 5329 Fax: 042 966 5010

Email: info@colmmcgovern.ie

176002 Bailieborough DX:

Our Ref: CMcG/SK/MC215

Your Ref:

<u>By Hand: -</u>

An Bord Pleanala 64 Marlborough Street Rotunda Dublin 1 D01 V902



Re: Planning Reference No. LB/S52012 and Declaration of Meath County Council dated the 4th February 2021

Appeal of Máiread Phelan,

Frank McGinn, Fergal Riggs and the Residents of Ledwidge Hall and Ledwidge Hall Green, Slane, County Meath ('The Appellants/Our Clients') [Social/ Affordable housing units at Ledwidge Hall Green, Slane, County Meath].

Dear Sirs,

We are instructed by Mairead Phelan, Frank McGinn, Fergal Riggs and the residents of Ledwidge Hall and Ledwidge Hall Green Residents Association, Slane, Co. Meath.

Please find enclosed the following: -

1.) Planning Reference Number LB/S52012

2.) Form of Appeal in duplicate

3.) The Appellants' original signed Form of Authority confirming our appointment as their Solicitors in this matter

Please note that an oral hearing is requested in respect of this matter.

Please note that the bearer of this letter will pay the prescribed fee due on this appeal including any additional fee due in respect of a request for an oral appeal.

We hereby authorise you to furnish to the bearer of this letter a receipt acknowledging receipt of the enclosed Form of Appeal and also a receipt in respect of the fee paid on the appeal.

We look forward to hearing from you in due course.

Yours faithfully,

Mc Cooren Colm McGovern Solicitors

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Planning & Development Act 2000-2020

DECLARATION

To: Mairend Pholan

o Ledwidge Hall Green

Slane

Co Meath

PLANNING REFERENCE

NUMBER:

LB/S52102

APPLICATION RECEIPT DATE:

11/01/2021

FURTHER INFORMATION DATE: N/A

In pursuance of the powers conferred upon them by the Planning and Development Act 2000-2020. Meath County Council has by order dated (42) 2021 decided to Declare the proposed development is EXEMPT, in accordance with the documents submitted namely: Imminent use of developments LB160659, LB180519 & LB190293 as exclusively Part 5, PDA, housing. at Ledwidge Hall Green, Drogheda Road, Slane, Co. Meath.

Date: 42 2021

On Rehalf of Month Co.

On Behalf of Meath County Council

NOTE:

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Any appeal against a Declaration of a Planning Authority under Section 5, sub-section 3 (a) of the Planning and Development Act 2000 may be made to An Bord Pleanala by the applicant WITHIN FOUR WEEKS beginning on the date of issue of the Declaration

Appeals should be addressed to An Bord Pleanala, 64 Marlborough Street, Dublin 1. An appeal by the applicant should be accompanied by this form. The fee for an appeal against a Declaration of the Planning Authority is € 220

For more information on Appeals you can contact An Bord Pleanala at:

Tel: 01 - 8588100 or LoCall: 1890 275 175

Fax: 01 - 8722684

E-mail: borde pleanalaie Web: www.pleanalaic

An Bord Pleanála, 64 Marlborough Street, Rotunda, Dublin 1, D01 V902.

PLANNING APPEAL TO AN BORD PLEANALA

Re: Planning Reference No. LB/S52102 and Declaration of Meath County Council dated the 4th February 2021

Appeal of Máiréad Phelan of 5 Ledwidge Hall Green, Slane, Co. Meath Frank McGinn, Fergal Riggs and the Residents of Ledwidge Hall and Ledwidge Hall Green, Slane, Co. Meath, The Appellants. [Social/Affordable housing units at Ledwidge Hall and Ledwidge Hall Green, Slane, Co. Meath].

AGENT; Colm McGovern Colm McGovern, Solicitors, Main Street, Bailieborough, Co. Cavan.

REFERENCES:

Grants of Planning Permission, of Meath County Council; Planning File Ref' LB/160659, Planning File Ref' LB/180519, Planning File Ref' LB/190293,

Planning and Development Act 2000 (as amended), Environmental Miscellaneous Provisions Act 2011. Council Directive 85/337/EEC of 27 June 1985, Article 10a,

Subject of Appeal

The Appellants herein wish to appeal the Determination of Meath County Council dated the 4th February 2021 declaring the proposed developments associated with Planning Permission No's LB160659, LB180519 and LB190293 as being 'Exempt' development. The appeal herein is against the said Determination and imminent development, arising from a declaration sought from Meath County Council pursuant to Section 5(3)(a) of the Planning and Development Act, 2000. It is hereby submitted to An Bord Pleanála.

GROUNDS OF APPEAL

The Appellants wish to appeal the declaration that the developments aforesaid are in accordance with and are in compliance with the Grants of Planning Permission aforementioned. It is the Appellants' contention that the said developments were not duly permitted or authorised pursuant to the Permissions aforementioned. The imminent developments on the site at Ledwidge Hall Green are, in the submission of the Appellants, entirely inconsistent, and at variance with, the Planning Permissions aforesaid. Indeed the particular developments which are to be commenced imminently, are a distinct and discrete form of development which was not considered during the course of the planning process before Meath County Council nor indeed was the specific purpose and use of the development units to be constructed ever considered adequately or at all within the said planning process prior to Grants of Planning Permission being made under the three Permissions aforementioned.

Part 5 of the Planning and Development Act 2000, (as amended).

The Appellants regard the imminent development as not being duly permitted and wish to lodge this appeal on the basis that the imminent development is a discrete and unique form of development which requires specific Permission in order for it to be proceeded with. The Permissions granted in the three Grants aforementioned do not afford, in the Appellants' view, an actual form of Permission to permit the intended development. The Appellants rely in their submissions on the provisions of Part 5 of the Planning and Development Act 2000, as amended by the Urban Regeneration and Housing Act 2015, which provides detailed description and defines Part 5 developments. That alone clearly differentiates and distinguishes such development from other types of conventional residential development as provided for in the Planning Act. It is the Appellants' contention that such Development, requiring as it does a detailed characterisation and description in the 2000 Act, also requires a detailed and discrete description and consideration in the planning process, to determine all aspects of the consent process, including Environmental Impact Assessment and Appropriate Assessment when required.

Prejudice to Appellants

The mere fact that the designation of social and affordable housing requires specific provisions within the Planning Code in order to distinguish it, and to define it legislatively, should clearly necessitate that it be discreetly identified in the planning application in order that it receives discrete consideration during the planning process. This should precede any Grant of Planning Permission for such development. The fact that no such consideration was afforded in this instance to the particular type of social and affordable development contemplated in Part 5 of the Planning and Development Act 2000 - 2015 has had significant prejudicial consequences for the Appellants. It has resulted in the fact that there was no timely access to comprehensive detailed information in the public domain regarding the intended development prior to the Grant of Permission. As a result of the fact that no adequate or complete information was made available to the public at large concerning the intended nature of the development, this deficit of information greatly prejudiced the participation of the Appellants in the process due to the lack of awareness and the obscurity of the actual underlying proposals and intentions for the use of the development units. As a consequence of that prejudice, the Appellants have also been prejudiced in relation to access to justice in relation to redress or appeal within the current appeals process or the Courts. They have been presented with a virtual fait accompli due to the opaqueness and information deficit which had the effect of hiding and concealing the true intention of the developers, the Department of Housing Local Government and Heritage, and and the Planning Authority in relation to this matter. Arguably, the flawed and inadequate planning process engaged in has contributed greatly to the flawed outcome. This now fails to meet the requirements for a valid permission, the scope of which could provide a valid and more nuanced consent to accommodate and reflect all relevant considerations.

The lack of access to information, and the consequent lack of participation and the prejudice which the Appellants suffer with regard to this appeal render the entire process very prejudicial to the Appellants. Consequently, there was no scope to adequately consider the proposals or to consider any variations to the development which might ensure better outcomes, ensure better social integration and provide for the optimal absorption of the intended residential units by the receiving community consisting of the existing community and residential development at Ledwidge Hall Green.

Without prejudice to the generality of the foregoing, and by way of contextualising the Appellants position there are several matters which the Appellants feel warranted further investigation and consideration, in the public domain. These were not ventilated or adequately considered due to the entirely inadequate and opaque processes adopted, and can be broadly summarised as follows;-

- a. The proposed development represents an over concentration of part 5 housing in all of the circumstances.
- b. The provision of 100% social/ affordable housing units at the proposed development site is not desirable in terms of the social integration between the existing residents of Ledwidge Hall and Ledwidge Hall Green and the prospective residents of the proposed development site.
- c No consideration was given to the Appellants and the residents of Ledwidge Hall and Ledwidge Hall Green generally as to whether difficulties created by the proposed 100% social/ affordable housing development, be such difficulties real or perceived by the

general public, would affect the future marketability of the dwellings of the current residents.

- d. There has been no consideration or discussion as to whether an alternative means of access via a different public roadway should be provided to access the proposed development separately from the roadways, common areas and green areas within the current development at Ledwidge Hall and Ledwidge Hall Green'.
- e. As a consequence of the acts and omissions of the Applicants and the statutory participants in the process, no opportunity was afforded to the Appellants or the public for access to all relevant information about the real underlying intentions of the Developers, Meath County Council, or the Department of Housing, Local Government and Heritage. As such, the Appellants and the public were not afforded their 'Arhus Rights' as provided for under the Environmental Impact Assessment Directive and domestic implementing legislation.

Statutory Provisions

Furthermore, it seems clear that Part 5 of the Planning and Development Act, 2000 - 2015 constitutes and defines a unique class of development which requires specific consideration and adherence to discrete statutory provisions pursuant to legislation. As such, it ought to be disclosed to the Planning Authority during the planning process and not only to the Planning Authority but also to the public at large. This did not happen. It is also significant that it must subsequently be subject to a detailed plan to be agreed by the developers and the Planning Authority in order to ensure proper compliance with Part 5 of the Planning and Development Act, 2000 - 2015. No such plan has been formally agreed, and if it has, the Appellants are unable to obtain sight of it. As a consequence, the Appellants are at a loss as to know how this development can be viewed as 'Exempt'.

In the premises, the provisions of the Environmental (Miscellaneous Provisions) Act, 2011 have not been complied with in accordance with the Aarhus principles of 'access to information, public participation and access to justice without prohibitive costs' in planning and development matters. As such, the development would also appear to fail to meet the requirements of the Environmental Impact Assessment Directives and domestic implementing legislation insofar as there was concealment and opacity, inadvertently or otherwise, in respect of the future actual use and intentions of the developers and indeed the Local Authority itself in relation to the development.

In the premises the Appellants request the Board to find that the intended development is not 'Exempt', that the planning process was fundamentally flawed, and that, in any event, the scope of the 3 Permissions aforementioned do not extend to permit the imminent development.

Role of Planning Authority.

The Appellants also wish to raise the issue that the development is one which the Local Authority in question is itself a very significant participant and in which it is advancing its own statutory obligations in order to make provision for the class of development intended on the site. As such, it is clear that, during the entire process, the Local Authority was, unknown to the Appellants, concurrently in direct and confidential communications with the Department

of Housing in relation to the intended development and in relation to the planning. At the same time, it was giving consideration to the Grant of Planning Permission, all of which was carried on without the knowledge of the public at large and without the knowledge of the local residents of Ledwidge Hall Green. They, primarily, through a lack of information and timely disclosure, were excluded from the entire planning process. They only learned of it belatedly, in late Summer of 2020, at which time it was far too late to appeal or engage in the planning process which had been completed for some time. This has led to the situation where they are currently considerably prejudiced in many respects by the process to date, and the imminent development.

We also refer to the files, correspondence, and documentation being held by the Planning Authority and the Department of Housing Planning and Heritage which is relevant and material to this appeal. FOI Requests for all correspondence and documents relevant to this Appeal, to the 3 aforementioned permissions, and to the S. 5 determination by Meath Co. Co. have been sought by and on behalf of the Appellants from Meath Co. Co. and the Department. This is still awaited, and its unavailability adds further prejudice to the Appellants position in preparing this Appeal within the statutory timeframe. We consequently request that this be reviewed in the course of consideration of this appeal by the Board.

The Appellants request an Oral Hearing of this Appeal.

Yours faithfully,

Colm McGovern Solicitors,
Solicitors for the Appellants,
Main Street,
Bailieborough,
County Cavan

Colm McGovern Solicitors

Main Street,
Bailieborough
Co. Cavan
Phone Number - 042 9665329
Email - info@colmmcgovern.ic

An Bord Pleanála, 64 Marlborough Street, Rotunda, Dublin 1, D01 V902.

PLANNING APPEAL TO AN BORD PLEANALA

Re: Planning Reference No. LB/S52102 and Declaration of Meath County Council dated the 4th February 2021

Appeal of Máiréad Phelan of 5 Ledwidge Hall Green, Slane, Co. Meath

Frank McGinn, Fergal Riggs and the Residents of Ledwidge Hall and Ledwidge Hall Green, Slane, Co. Meath, The Appellants.

[Social/Affordable housing units at Ledwidge Hall and Ledwidge Hall Green, Slane, Co. Meath].

AGENT;

Colm McGovern Colm McGovern, Solicitors, Main Street, Bailieborough, Co. Cavan.

REFERENCES:

Grants of Planning Permission, of Meath County Council; Planning File Ref' LB/160659, Planning File Ref' LB/180519, Planning File Ref' LB/190293,

Planning and Development Act 2000 (as amended), Environmental Miscellaneous Provisions Act 2011. Council Directive 85/337/EEC of 27 June 1985, Article 10a,

Subject of Appeal

The Appellants herein wish to appeal the Determination of Meath County Council dated the 4th February 2021 declaring the proposed developments associated with Planning Permission No's LB160659, LB180519 and LB190293 as being 'Exempt' development. The appeal herein is against the said Determination and imminent development, arising from a declaration sought from Meath County Council pursuant to Section 5(3)(a) of the Planning and Development Act, 2000. It is hereby submitted to An Bord Pleanála.

GROUNDS OF APPEAL

The Appellants wish to appeal the declaration that the developments aforesaid are in accordance with and are in compliance with the Grants of Planning Permission aforementioned. It is the Appellants' contention that the said developments were not duly permitted or authorised pursuant to the Permissions aforementioned. The imminent developments on the site at Ledwidge Hall Green are, in the submission of the Appellants, entirely inconsistent, and at variance with, the Planning Permissions aforesaid. Indeed the particular developments which are to be commenced imminently, are a distinct and discrete form of development which was not considered during the course of the planning process before Meath County Council nor indeed was the specific purpose and use of the development units to be constructed ever considered adequately or at all within the said planning process prior to Grants of Planning Permission being made under the three Permissions aforementioned.

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Prejudice to Appellants

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general public, would affect the future marketability of the dwellings of the current residents.

- d. There has been no consideration or discussion as to whether an alternative means of access via a different public roadway should be provided to access the proposed development separately from the roadways, common areas and green areas within the current development at Ledwidge Hall and Ledwidge Hall Green'.
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The Appellants also wish to raise the issue that the development is one which the Local Authority in question is itself a very significant participant and in which it is advancing its own statutory obligations in order to make provision for the class of development intended on the site. As such, it is clear that, during the entire process, the Local Authority was, unknown to the Appellants, concurrently in direct and confidential communications with the Department

of Housing in relation to the intended development and in relation to the planning. At the same time, it was giving consideration to the Grant of Planning Permission, all of which was carried on without the knowledge of the public at large and without the knowledge of the local residents of Ledwidge Hall Green. They, primarily, through a lack of information and timely disclosure, were excluded from the entire planning process. They only learned of it belatedly, in late Summer of 2020, at which time it was far too late to appeal or engage in the planning process which had been completed for some time. This has led to the situation where they are currently considerably prejudiced in many respects by the process to date, and the imminent development.

We also refer to the files, correspondence, and documentation being held by the Planning Authority and the Department of Housing Planning and Heritage which is relevant and material to this appeal. FOI Requests for all correspondence and documents relevant to this Appeal, to the 3 aforementioned permissions, and to the S. 5 determination by Meath Co. Co. have been sought by and on behalf of the Appellants from Meath Co. Co. and the Department. This is still awaited, and its unavailability adds further prejudice to the Appellants position in preparing this Appeal within the statutory timeframe. We consequently request that this be reviewed in the course of consideration of this appeal by the Board.

The Appellants request an Oral Hearing of this Appeal.

Yours faithfully,

Colm McGovern Solicitors, Solicitors for the Appellants, Main Street, Bailieborough, County Cavan

Colm McGovern Solicitors

Main Street,

Bailieborough

Co. Cavan

Phone Number - 042 9665329

Email - info@colmmcgovern.ie

FORM OF AUTHORITY

Re: Planning Reference No. LB/S52012 and Declaration of Meath County Council dated the 4th February 2021

Appeal of Máiread Phelan of 5 Ledwidge Hall Green, Slane, County Meath Frank McGinn, Fergal Riggs and the Residents of Ledwidge Hall and Ledwidge Hall Green, Slane, County Meath ('The Appellants')

[Social/ Affordable housing units at Ledwidge Hall Green, Slane, County Meath].

We, Máiread Phelan of 5 Ledwidge Hall Green, Slane, County Meath, Frank McGinn of 12 Ledwidge Hall, Slane, County Meath and Fergal Riggs of 16 Ledwidge Hall, Slane, County Meath in our own respective personal capacities and for and behalf of all of the members of Ledwidge Hall Residents Association hereby confirm that we have appointed Colm McGovern of Colm McGovern Solicitors, Main Street, Bailieborough, County Cavan as our solicitor and/or agent in relation to the above matter. We authorise and instruct you to correspond with our appointed Solicitor, Colm McGovern of Colm McGovern Solicitors, Main Street, Bailieborough, County Cavan and to furnish all information and documents to him and to deal with all queries that he may raise relating to a certain form of appeal lodged on our behalf by Colm McGovern Solicitors with An Bord Pleanála relating to Planning Reference Number LB/S52102 and the Planning Reference Numbers as referred to therein.

Dated the 25th day of February 2021.

Signed:

Máiread Phelan

Signed:

Frank McGinn

Fergal Riggs

Signed:

Signed:

Mairead Phelan for and behalf

Of all of the residents of the

Ledwidge Hall Residents Association

To:

An Bord Pleanála,

64 Marlborough Street,

Rotunda, Dublin 1

D01 V902



Meath County Council Buvinda House, Dublin Rd, Co. Meath Ledwidge Hall Residents Association c/o Mairéad Phelan S Ledwidge Hall Green Slane, Co. Meath C15 E7W9 17.12.2020

Request for declaration pursuant to Section 5 of the Planning and Development Act 2000 as amended, in relation to Part 5 usage.

In relation to the above, Section 5 Declarations are sought in relation to the following queries relating to the imminent use of the developments referenced hereunder as exclusively Part 5, PDA, housing:

- Is the imminent 'use' of the developments permitted pursuant to the planning references LB1601659, LB180519 and LB190293, at Ledwidge Hall/Ledwidge Hall Green, Slane, Co. Meath, for affordable housing, a development within the meaning of the Planning Act 2000 as amended?
- 2. Is the imminent 'use' of the developments permitted pursuant to planning references LB1601659, LB180519 and LB190293, at Ledwidge Hall/Ledwidge Hall Green, Slane, Co. Meath, for affordable housing, an 'exempted development' within the meaning of Section 5 of the Planning Act 2000, as amended?
- 3. Is the imminent 'use' of the developments permitted pursuant to Planning references LB1601659, LB180519 and LB190293, at Ledwidge Hall/Ledwidge Hall Green, Slane, Co. Meath, for either Social or affordable housing, a change of 'use and therefore development' within the meaning of the Planning Act 2000, as amended?

An acknowledgement of our request under the Freedom of Information Act would be appreciated in the interim while awaiting your full response.

Kind Regards

p.p Ledwidge Hall Residents Association