



An
Bord
Pleanála

Inspector's Report ABP-312927-22

Question

Whether certain specified works of repair to the exterior of The Ambassador Theatre, a protected structure, are development and, if so, whether they are exempted development?

Location

The Ambassador Theatre, Parnell Street, Dublin 1.

Declaration

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

0029/22

Applicant for Declaration

Millennium Theatre Company

Planning Authority Decision

Development that is not exempted development

Referral

Referred by

Millennium Theatre Company

Owner

Rotunda Hospital

Observer(s)

None

Date of Site Inspection

9th September 2022

Inspector

Hugh D. Morrison

Contents

1.0 Site Location and Description	5
2.0 The Question	5
3.0 Planning Authority Declaration.....	6
3.1. Declaration.....	6
3.2. Planning Authority Reports	6
4.0 Planning History.....	7
5.0 Policy Context.....	10
5.1. National Planning Guidelines	10
5.2. Development Plan.....	10
5.3. Natural Heritage Designations	11
6.0 The Referral.....	11
6.1. Referrer’s Case	11
6.2. Planning Authority Response	12
6.3. Owner’s response	14
6.4. Further Responses.....	14
7.0 Statutory Provisions.....	15
7.1. Planning and Development Act, 2000	15
7.2. Planning and Development Regulations, 2001	17
7.3. Other	17
8.0 Assessment.....	17
8.1. Preliminaries	17
8.2. Is or is not development.....	19
8.3. Is or is not exempted development	19
8.4. Conclusion	24

9.0 Recommendation..... 25

1.0 Site Location and Description

- 1.1. The site is located at the northern end of Upper O'Connell Street. It lies within the south-eastern corner of Parnell Square, and it is bound by Cavendish Row to the north-east and Parnell Street to the south-east. This site accommodates The Ambassador Theatre, and it adjoins, to the north-west, The Gate Theatre and, to the south-west, The Rotunda Hospital.
- 1.2. The Ambassador Theatre is a protected structure (RPS reg. no. 6437), and it is included in the NIAH under reg. ref. 50010618. Under the RPS, this building is described as "former Ambassador Cinema (former Rotunda Rooms)", and, under the NIAH, it is introduced as being a "Corner-sited attached two-tiered Classical-style rotunda theatre, built 1764-7, designed by John Ensor." The accompanying appraisal reads as follows:

Built to the designs of John Ensor this substantial structure is located in a prominent position partially closing the vista to the north along O'Connell Street. The overall flowing design of the structure is greatly enhanced by the numerous decorative features, including contrasting wall treatments and a substantial arcade. As well as being a notable structure itself, it forms an integral component of a collection of attached structures that includes the Rotunda Hospital which was executed by John Ensor to designs by Richard Castle. The theatre was originally designed as an entertainment complex to attract funding for the hospital and it continues to act as an important cultural and social hub on the north side of Dublin City.

- 1.3. Consequently, the building is rated as being of national importance, and it is categorised as being of architectural, artistic, cultural, and historic interest.

2.0 The Question

- 2.1. The referrer proposes the following works to the exterior of the building on the site:
1. Thoroughly clean down/wash the parapets and plasterwork generally. Remove all vegetation, rake and repaint damaged sections of painting. Also, hack off the defective sections/cracked sections of render and re-render to match existing.

2. Carry out masonry repairs to parapets to the perimeter and the external face of the parapet and reinstate the moulding details.
3. Carefully refurbish/reinstate the moulding throughout and leave in good condition.
4. Hack off the cracked damaged sections of render and redo to match existing including the ashlar effect throughout.
5. Make good all bell cast where damaged.
6. Carefully refurbish the upper level parapets and make all necessary stone repairs to corbels.
7. Clean down stone and render finishes including all intermediate and (sic) parapet corbels removing all sediment moss and debris throughout.
8. Cut out the damaged/cracked section to the render and make good including ashlar effect generally.
9. Carry out stone repairs to pillars and thoroughly clean.
10. Hack off defective plaster finishes and make good.

2.2. And so the referrer's question is: Whether or not the above repair works are exempted development or do the acts and operations referred to above constitute works requiring permission?

3.0 Planning Authority Declaration

3.1. Declaration

The proposed works comprise development which of themselves and in combination would not come within the meaning of Section 4(1) and Section 57 of the Planning and Development Act 2000 (as amended) as the proposed development would materially affect the character of the protected structure and therefore would require planning permission.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The key points from the case planner's report are reiterated in the Planning Authority's response to the referrer's case. These are summarised below under Section 6.2 of my report.

3.2.2. Other Technical Reports

None

4.0 Planning History

Recent planning history of the Ambassador Theatre is summarised below:

- **E0223/19:** Enforcement enquiry re. unauthorised cleaning of front façade and possible unauthorised works: File remains open.
- **0186/19:** Section 5 split-decision declaration:

The following works were declared to be development, which is exempted development:

Ground Floor Plan:

1. *Thoroughly clean down, prepare and paint ceilings throughout.*
2. *Thoroughly clean down, prepare and paint walls throughout. Colour to match existing.*
3. *Thoroughly clean down / replace floor finishes throughout.*
4. *Thoroughly clean down, repair and prepare all joinery and doors throughout.*
5. *Thoroughly clean down, repair and varnish all balustrade to stairs. Colour to match existing.*
6. *Thoroughly clean down all sanitary ware and recommission where necessary.*
7. *Thoroughly clean down ceiling grid and tiles.*

Roof Plan:

1. *Carry out repairs to the roof and deck and leave in good condition.*
2. *Take up and recoat ash felt roof covering and paint with solar reflective coating.*
3. *Remove uPVC pipes and replace with cast iron rainwater goods.*

4. *Overhaul the flagpoles and leave in good condition.*
5. *Take up and replace the flat roof covering with new torch on flat roof covering and coat in solar reflective paint.*
6. *Carefully overhaul the 5 no. glazed roof lights lanterns and leave in good condition.*
7. *Remove all damaged / slipped slates and fix with new slates clipped back into position on the roof surfaces generally.*
8. *Take out the damaged sections of lead lined valleys and replace with new appropriate coded lead to match existing.*
9. *Take off and recover the roof of the projecting dormer window.*
10. *Damaged lead sheets to be taken out and replaced.*

O'Connell Street and Cavendish Row Elevations:

1. *Cut back/remove all vegetation growth from the building perimeter and make good all damages to stone facade.*
2. *Carefully refurbish and redecorate the external windows and doors along the rear elevation including the upper-level roof lights to the mono-pitch roof.*
3. *Overhaul the rainwater hoppers and downpipes and leave in good order.*
4. *Carefully overhaul the windows and doors and redecorate.*

The following works were declared to be development, which is not exempted development:

Roof Plan:

1. *Thoroughly clean down / wash the parapets and plasterwork generally. Remove all vegetation, rake and repaint damaged sections of painting. Also, hack off the defective sections/cracked sections of render and re-render to match existing.*
2. *Carry out masonry repairs to parapets to the perimeter and the external face of the parapet and reinstate the moulding details.*
3. *Carefully refurbish/reinstate the moulding throughout and leave in good condition.*
4. *Hack off the cracked damaged sections of render and redo to match existing including the ashlar effect throughout.*

5. *Make good all bell cast where damaged.*

O'Connell Street and Cavendish Row Elevations:

1. *Carefully refurbish the upper-level parapets and make all necessary stone repairs to corbels.*

2. *Clean down stone and render finishes including all intermediate an parapet corbels removing all sediment moss and debris throughout.*

3. *Cut out the damaged/cracked section to the render and make good including ashlar effect generally.*

4. *Carry out stone repairs to pillars and thoroughly clean.*

5. *Hack off defective plaster finishes and make good.*

- **0494/19:** Section 5 declaration

The following works were declared to be development, which is not exempted development:

1. *Thoroughly clean down / wash the parapets and plasterwork generally.*

Remove all vegetation, rake and repaint damaged sections of painting. Also, hack off the defective selections/cracked sections of render and re-render to match existing.

2. *Carry out masonry repairs to parapets to the perimeter and the external face of the parapet and reinstate the moulding details.*

3. *Carefully refurbish / reinstate the moulding throughout and leave in good condition.*

4. *Hack off the cracked damaged sections of render and redo to match existing including the ashlar effect throughout.*

5. *Make good all bell cast where damaged.*

6. *Carefully refurbish the upper-level parapets and make all necessary stone repairs to corbels.*

7. *Clean down stone and render finishes including all intermediate an (sic) parapet corbels removing all sediment moss and debris throughout.*

8. *Cut out the damaged / cracked section to the render and make good including Ashlar effect generally.*

9. *Carry out stone repairs to pillars and thoroughly clean.*

10. Hack off defective plaster finishes and make good.

5.0 Policy Context

5.1. National Planning Guidelines

Architectural Heritage Protection

5.2. Development Plan

Under the Dublin City Development Plan 2016 – 2022 (CDP), the Ambassador Theatre is designated a protected structure (RPS reg. no. 6437). (It is also included in the NIAH under reg. ref. 50010618). The site of this Theatre is shown as lying within an area zoned Z8, wherein the objective is “To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.” This site is also shown as lying within a conservation area and within the O’Connell Street Architectural Conservation Area (ACA).

Relevant policies of the CDP are set out below.

CHC2

To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

(a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest.

(b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances...

CHC4

To protect the special interest and character of all Dublin’s Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.

2. Re-instatement of missing architectural detail or other important features...

Development will not:

1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area.

2. Involve the loss of traditional, historic or important building forms, features, and detailing including roofscapes, shop-fronts, doors, windows and other decorative detail...

5.3. Natural Heritage Designations

Portions of Dublin Bay are the subject of European designations.

6.0 The Referral

6.1. Referrer's Case

The referrer disagrees with the Planning Authority's declaration that certain external works to the Ambassador Theatre, a protected structure, would be development, which is not exempted development. In this respect, it contends that these works would not materially affect the character of this protected structure or any element of this structure. It further states that the failure to issue a declaration of exempted development would have the effect of allowing the protected structure to fall further into a state of disrepair, which would ultimately materially affect its character.

The referrer's conservation architects advise that they have carried out similar works to those in question on buildings of national importance throughout the country under declarations of exempted development.

The referrer acknowledges the previous declaration of the works in question, under 0494/19. It now seeks to interact with the Planning Authority's Architectural Conservation Officer's advice that led to this declaration. Its conservation architect comments as follows:

- Cumulative effect

The cumulative effect of the works would not result in a material impact on the character of the protected structure.

- Cracking to the granite soffit

The exact cause of the cracking is unknown. A conservation structural engineer would investigate and assess the same. (If opening-up/invasive works are required, then the Planning Authority's approval would be sought). Any widening of the cracks would be monitored, before they are filled in.

- Coade stone

Repair methodologies would be sought from a firm with expertise in working with Coade stone, e.g., Stoneware Restoration Ltd.

- Cleaning

Low pressure steam cleaning would be appropriate. The aim would be to remove harmful dirt and vegetation rather than making stonework appear new again.

- Render

Samples of mortar for repairs would be presented to the Planning Authority for approval. The render on the rear elevation of the Theatre has been patched up over the years and so it would be re-rendered in its entirety with a sacrificial render that would not harm the substrata beneath.

The referrer's application to the Planning Authority was accompanied by documents from its conservation architects, which address the scope of their survey, a condition assessment and summary of recommended repairs, marked-up elevation drawings, specifications of external repairs, and a photographic record.

6.2. Planning Authority Response

The Planning Authority reviews the policy context and planning history of the Ambassador Theatre. It states that, with respect to protected structures, the Section 5 declaration process is principally aimed at modest works, whereas under the current application wide ranging works to multiple elevations of a nationally

significant protected structure in a landmark position at the northern end of the O'Connell Street ACA are proposed. It also states that the cumulative impact of these works would materially affect the character of the protected structure (and the ACA) and so, under Sections 4(1)(h) and 57(1) of the Planning and Development Act, 2000 (as amended), they would not constitute exempted development.

The Planning Authority further states that the need for planning permission implies no judgement on the merits or otherwise of the proposed works. It would, however, in the event of a grant afford the opportunity for conditions to be attached to any permission, something that is not available under the Section 5 declaration process.

The Planning Authority comments on the specific subjects that it discussed previously and to which the referrer responded above.

- Cumulative effect

The proposed works to multiple elevations of the building would in combination be substantial in scope and nature. Consequently, their cumulative effect would be to materially affect the character of the protected structure and the ACA.

- Cracking of granite and rendered elements

While cracks in the building are identified, they have not been the subject of a structural assessment. Their remediation may thus materially affect the character of the protected structure.

- Coade stone

The Coade stone Bucrania frieze is unique within an Irish context, and it is one of the finest examples of this stonework frieze in existence. The specification submitted for its repair is general in nature and it is unclear if this specification has been arrived at by a specialist with relevant expertise. Likewise, a methodology for the repairs has not been clearly presented. Consequently, these repairs could materially affect the character of the protected structure.

- Cleaning

The Architectural Heritage Protection Guidelines advise that stone cleaning has the potential to affect the character of a protected structure. The “Façade Gommage System” has previously been used on the subject building without authorisation. While the applicant’s conservation architect advises against its continued use, it is still specified in Appendix B of the submitted Conservation Report.

- Render

The proposed breaking out and replacement of render on prominent public elevations has the potential to create a patchwork effect, which would, likewise, affect the character of a protected structure and the ACA.

The Planning Authority refers to the applicant’s quest to obtain a Section 57 declaration. However, the paperwork submitted duplicated the earlier application 0494/19 for specific proposed works rather than types of works, which is the appropriate category for a Section 57 declaration. The applicant was duly informed of this distinction.

6.3. Owner’s response

None

6.4. Further Responses

The referrer cites the Architectural Heritage Protection Guidelines, which state that “Good conservation practice encourages the honesty of repairs and alterations which may be discernible to the expert eye but not visually obtrusive.” They further state, under the heading “Promoting honesty of repairs and alterations”, the following:

To promote good conservation practice in line with the recommendations of international charters, repairs to a protected building or structure should generally be carried out without attempt at disguise or artificial ageing. This does not mean that the repair should be obtrusive or that inappropriate materials should be used in order to contrast with the historic fabric. A good repair, carried out with skill, leaves an interesting record of works done. Deliberately obscuring alterations confuses the historical record that is the building.

New repairs should not detract from the visual integrity of the structure but should be discernible on closer inspection.

The referrer states that the proposed works would reflect the above cited advice. Furthermore, it states that these works would be “wholesale”, insofar as they would be far reaching, but they would still be modest, insofar as they would be works of maintenance and repair. Consequently, the Planning Authority’s view that in combination these works would be substantial in scope and nature is challenged, i.e., why would many modest works of maintenance and repair amount to being substantial in scope and nature?

The referrer reiterates its approach to each of the four specific subject areas that are in contention. It adds that its RIAI accredited Grade 1 conservation architect supports the approach that would be adopted in each case, and it is of the view that the proposed works would not materially affect the character of the protected structure.

The referrer challenges the Planning Authority’s distinction, under Section 57, between types of works and the specific proposed works. In this respect, it cites the aforementioned Guidelines to the effect that,

The senior planner for the area and the conservation officer, where available, should agree the type of works that would or would not be considered exempted development in respect of the particular protected structure. Care should be taken to ensure that the advice given is unambiguous. It should be set out in a format that is clear to read and easy to understand for people unfamiliar with specialist terminology.

The referrer comments to the effect that type of works can therefore include specific (unambiguous) works such as those proposed. Nevertheless, as the Planning Authority refused to register its Section 57 application, the referrer has had to have recourse to the Section 5 process.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

Section 3(1): Development

In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 2(1): Interpretation

“land” includes any structure and any land covered with water (whether inland or coastal);

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 4(1): Exempted development

The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 57: Works affecting character of protected structures or proposed protected structures

(1) Notwithstanding section 4(1)(a), (h), (i), (ia), (j), (k), or (l) and any regulations made under section 4(2), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

Section 82: Development in architectural conservation areas.

(1) Notwithstanding paragraph (a), (h), (i), (ia), (j), (k) or (l) of section 4(1), or any regulations made under section 4(2), the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

7.2. Planning and Development Regulations, 2001

None

7.3. Other

None

8.0 Assessment

8.1. Preliminaries

- 8.1.1. The referrer has raised the issue of a Section 57 application, which preceded its recourse to the current Section 5 exercise. It and the Planning Authority have commented on this earlier application. Notwithstanding the submission of a copy of this Section 57 application with the current referral, the referrer has explicitly stated that it is not before the Board for adjudication and so I will not comment further on the same.

8.1.2. The question of the proposed works and whether they would materially affect the character of both the protected structure and the O'Connell Street ACA has been raised. I take the view that the former test, as to any material affect on the protected structure, is more rigorous than the latter test, as to any material affect on the ACA, and so I will address the former test only in my assessment.

8.1.3. The referrer has presented the proposed works and stated the question "Whether or not the above repair works are exempted development or do the acts and operations referred to above constitute works requiring permission?" In the interests of clarity, I consider that this question should refer to the Ambassador Theatre and its status as a protected structure. Furthermore, the Planning Authority has drawn attention to the second sentence in item 1, i.e., "Remove all vegetation, rake and repaint damage sections of painting." The view is expressed that within the context of this sentence the references to "repaint" and "painting" should read "repoint" and "pointing". While the referrer has not commented one way or the other on this correction, notation on the submitted plans would support this correction and so I concur with it.

Accordingly, the question should read as follows:

Proposed works:

1. Thoroughly clean down/wash the parapets and plasterwork generally.
Remove all vegetation, rake and repoint damaged sections of pointing. Also, hack off the defective sections/cracked sections of render and re-render to match existing.
2. Carry out masonry repairs to parapets to the perimeter and the external face of the parapet and reinstate the moulding details.
3. Carefully refurbish/reinstate the moulding throughout and leave in good condition.
4. Hack off the cracked damaged sections of render and redo to match existing including the ashlar effect throughout.
5. Make good all bell cast where damaged.
6. Carefully refurbish the upper-level parapets and make all necessary stone repairs to corbels.

7. Clean down stone and render finishes including all intermediate and (sic) parapet corbels removing all sediment moss and debris throughout.
8. Cut out the damaged/cracked section to the render and make good including ashlar effect generally.
9. Carry out stone repairs to pillars and thoroughly clean.
10. Hack off defective plaster finishes and make good.

Whether the above cited works of repair to the exterior of the Ambassador Theatre, a protected structure, are development and, if so, whether they are exempted development?

8.2. Is or is not development

- 8.2.1. The referrer describes the proposed works to the exterior of the Ambassador Theatre, a protected structure, as being repairs. Under Section 3(1) of the Planning and Development Act, 2000, as amended, (hereafter referred to as the Act), “development” is defined as “... the carrying out of any works on, in over or under land...”. Under Section 2(1) of the Act, “land” includes any structure, “structure” includes any building, including, in the case of a protected structure, any features or fixtures to its exterior, and “works” are defined as including “any act or operation of...repair...and, in relation to a protected structure..., includes any act or operation involving the application or removal of plaster...or other material to or from the surfaces of the... exterior of a structure.”
- 8.2.2. The proposed works would be repairs and so they would be “works”. Consequently, they would constitute “development” under the aforementioned legal definitions.

8.3. Is or is not exempted development

- 8.3.1. The Ambassador Theatre on the site is a protected structure, which also appears on the NIAH as a building of national importance due to its architectural, artistic, cultural, and historical interest. Under Section 57(1) of the Act, the carrying out of works to a protected structure is exempted development only if the works would not materially affect the character of (a) the structure, i.e., the building, or (b) any

element of the structure which contributes to its special interest, i.e., in this case, its architectural, artistic, cultural, and historical interest.

8.3.2. The referrer and the Planning Authority disagree on the question as to whether the proposed works are exempted development. This disagreement revolves around an assessment of these works, which have been categorised under the following four headings:

- Cracking of granite and rendered elements,
- Coade stone,
- Cleaning, and
- Render.

(A fifth heading of cumulative effect is also the subject of disagreement). I will discuss the proposed works under these headings in order to establish whether or not they are exempted development in accordance with Section 57(1) of the Act. I will also discuss cumulative effect.

Cracking of granite and rendered elements

8.3.3. The referrer's Condition Assessment identifies cracking to granite soffits in the front (west) arcade to the Ambassador Theatre. It also identifies extended horizontal cracking to the render in the Theatre's east elevation, both to the ashlar effect render on the wall and the upper surface of the rendered cornice above this wall. The referrer's recommendations do not address these cracks as it is acknowledged that their cause remains unknown and so the referrer proposes that they be the subject of investigation by a conservation structural engineer.

8.3.4. The Planning Authority cites the Architectural Heritage Protection Guidelines, which advise that works should be "based on a proper knowledge and understanding of the existing structure." Dissatisfaction is expressed over this lacuna in the referrer's proposed works.

8.3.5. Clearly, in the absence of a known cause for the cited cracks, no repair works can be proposed with any confidence and so the referrer is not in a position to demonstrate that such works would not materially affect the character of the protected structure.

Coade stone (proposed works no. 2, 3, 5 & 6)

- 8.3.6. The referrer's Condition Assessment addresses the use of Coade stone in a decorative frieze that adorns the upper surface of the walls to the rotunda of the Ambassador Theatre. This frieze is composed of the following fixtures: 23 Bucranium (ox skulls) and accompanying swags and 25 roundels. Approximately 6 of these fixtures have previously been replaced and other repairs have included the use of cement mortar with mixed results. Portions of the swags and individual roundels are missing.
- 8.3.7. The referrer recommends repairs "under the direction" of Stoneware Restoration Ltd, a specialist firm that manufactures Coade stone to its original recipe. These repairs would entail the securing of loose fixtures with stainless steel fixings, the replacement of defective cement mortar, and the replacement of missing elements of the fixtures. (The applicant has retained the moulds for these fixtures from previous replacements and so they would be reused).
- 8.3.8. The backdrop to the decorative frieze is composed of courses of ashlar granite with accompanying joints filled with cement mortar. The referrer recommends that these joints should be raked out and repointed with a lime mortar. The referrer also recommends that, where the granite cornice has deteriorated above the decorative frieze, it either be replaced or stone indents be inserted. Likewise, where the granite edge to the bottom of the frieze has become friable that it be removed. It thereby envisages that the backdrop to the decorative frieze would be stabilised.
- 8.3.9. The Planning Authority emphasises the importance of the decorative frieze, as the only one of its kind in Ireland, and as one of the best examples of the use of Coade stone anywhere. It expresses concern that the applicant's assessment and recommendations are too general and so insufficient detail of the proposed repair works has been submitted. Consequently, these works would, potentially, materially affect the character of the protected structure.
- 8.3.10. The applicant has responded to the Planning Authority by stating that details and methodologies would be sought from either the firm cited or an equivalent firm.
- 8.3.11. I note that the submitted plans delineate the proposed works cited above. I note, too, that the referrer has set out in its Specification (Appendix B) some relevant methodologies for undertaking these works. However, neither a chronological work

programme nor any methodologies for the protection of sensitive items, such as the Coade fixtures, has been submitted. Given the overlapping nature of the proposed works to the decorative frieze, such a programme and methodologies are important if the referrer is to demonstrate that the proposed works would be capable of being carried out without materially affecting the character of the protected structure.

Cleaning (proposed works nos. 1, 7, 9)

- 8.3.12. The referrer's Condition Assessment states its eagerness "to reduce the amount of soiling on stone and rendered surfaces and to lighten the appearance of rust staining (due to water penetration) on the granite facades." It acknowledges that the use, on a trial basis, of the "Façade Gommage System" on the Ambassador Theatre proved to be too harsh and so it does not propose to use this System again. Instead, vegetation growth would be treated by a biocide, and cleaned by means of a steam/superheated water vapour system, e.g., DOFF or similar. Confusingly, the referrer's Specification (Appendix B) continues to cite the use of the "Façade Gommage System".
- 8.3.13. The Planning Authority draws attention to the unauthorised cleaning that has occurred using the "Façade Gommage System". This cleaning is the subject of an extant enforcement notice (E0223/19). It also draws attention to the above cited confusion.
- 8.3.14. The referrer has responded by reiterating that it would use a DOFF or similar system to clean the building with a view to lifting its appearance rather than making it appear as good as new.
- 8.3.15. The Architectural Heritage Protection Guidelines advise on "Stone Cleaning" (Paragraphs 8.3.19). These Guidelines recognise that stone cleaning has the potential to materially affect the character of a protected structure, especially if inappropriate methodologies are selected, and they emphasise the importance of its justification and the selection of an appropriate methodology. They also warn that "The use of biocides to remove organic growth should be treated with caution as inappropriate use can cause damage to stonework." In the light of this advice, the referrer has not provided sufficient justification for the proposed cleaning, it has not worked through in sufficient detail the appropriateness of the methodologies selected for treating vegetation, and it has not presented in an unequivocal way the stone

cleaning methodology that would be used. Consequently, the referrer has not demonstrated that the proposed works intended to clean the protected structure would not materially affect its character.

Render (proposed works nos. 1, 4, 8 & 10)

8.3.16. The referrer's specification outlines the following three types of render repairs that are proposed:

- Removal and re-application of lime render from the blind arch on the (western) return elevation to the front portion of the building. This arch abuts the roof to the arcade (cf. Drawing No. L05 and Figure 16 of the referrer's Photographs (Appendix C)),
- Patch cement render to the old cement render on the rotunda walls below the decorative frieze and re-render chimney in its entirety (cf. Drawing No. L05), and
- Patch repairs to cracking and detaching cement render with added mica on the eastern elevation (cf. Drawing No. L02).

8.3.17. The Planning Authority expresses concern that the above cited repairs have the potential for visual discord between retained and new areas of render resulting in a patchwork appearance to the affected elevations.

8.3.18. The referrer acknowledges that it often takes several samples of mortars before the right one emerges and is approved for use. It also draws attention to the façade of the rear elevation, which is addressed in Section 3.4. of its Condition Assessment. This façade would be the subject of a lime shelter coat that would consolidate its appearance in a non-harmful way to the underlying substrata.

8.3.19. The referrer's Condition Assessment refers to earlier defective cement repairs to the bases and capitals of columns in the arcade. The former would be repaired by means of moulded granite indents and the latter by means of lime-based mortar (cf. Drawing No. L01). Columns in the rear elevation would be similarly repaired with respect to their bases, but concrete with granite aggregate would be used to replace their capitals (cf. sketch drawing of the rear elevation). No explanation is given for these differing methodologies.

8.3.20. I note that the referrer recognises that it is not possible “ahead of time” to be precise as to the exact mix of mortars that would be appropriate to ensure that patchwork appearance scenarios are avoided. It states that samples would be presented to the Planning Authority for approval. However, the formal opportunity for such submission and approval would only arise on foot of a planning condition, which presupposes the existence of a planning permission rather than a Section 5 declaration of exempted development. I note, too, that the proposed treatment of the rear elevation would affect its existing appearance. In both instances, the proposed works would, potentially, have a material affect on the character of the protected structure.

Cumulative effect

8.3.21. The Planning Authority draws attention to the proposed repair works, which would affect each elevation of the building. It expresses the view that these works would, in combination, be substantial in their scope and nature and so there would be a cumulative effect.

8.3.22. The referrer dissents. It states that, while the proposed works would be extensive, they would, as repairs, be modest, and so it challenges the Planning Authority’s description that they would be substantial in their scope and nature.

8.3.23. I consider that, under any review of the referrer’s submitted documents and plans, it is clear that the proposed repair works would be numerically high and extensive in their reach. As illustrated by my discussion of Coade Stone, some would overlap with one another and thereby create in-combination issues. Collectively, these repairs would have a cumulative effect.

8.4. Conclusion

8.4.1. I conclude from my assessment of the proposed repair works that the referrer has not been able to demonstrate that these works would not materially affect the character of the Ambassador Theatre, which is a protected structure. Its inability in this respect arises from the need for either further investigations or further consideration of in-combination issues or the nature of such repairs themselves, which require to be checked on-site pursuant to planning conditions. In these circumstances, I conclude that the proposed repair works have the potential individually or collectively to materially affect the character of the protected structure

and the character of features and fixtures attached to its exterior. I also conclude that, in the absence of a conditional planning permission, there is no realistic prospect of that potential being overcome. I, therefore, conclude that these works are not exempted development.

9.0 Recommendation

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the proposed works of repair to the exterior of The Ambassador Theatre, a protected structure, set out below, are or are not development and are or are not exempted development:

Proposed works:

1. Thoroughly clean down/wash the parapets and plasterwork generally. Remove all vegetation, rake and repoint damaged sections of pointing. Also, hack off the defective sections/cracked sections of render and re-render to match existing.
2. Carry out masonry repairs to parapets to the perimeter and the external face of the parapet and reinstate the moulding details.
3. Carefully refurbish/reinstate the moulding throughout and leave in good condition.
4. Hack off the cracked damaged sections of render and redo to match existing including the ashlar effect throughout.
5. Make good all bell cast where damaged.
6. Carefully refurbish the upper level parapets and make all necessary stone repairs to corbels.
7. Clean down stone and render finishes including all intermediate and (sic) parapet corbels removing all sediment moss and debris throughout.

8. Cut out the damaged/cracked section to the render and make good including ashlar effect generally.
9. Carry out stone repairs to pillars and thoroughly clean.
10. Hack off defective plaster finishes and make good.

AND WHEREAS Millennium Theatre Company requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 22nd day of February 2022 stating that the matter was development and was not exempted development:

AND WHEREAS Millennium Theatre Company referred this declaration for review to An Bord Pleanála on the 3rd day of March 2022:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
- (c) Section 57(1) of the Planning and Development Act, 2000, as amended,
- (d) The planning history of the site, and
- (e) The pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The proposed works of repair are development.

- (b) The proposed works would, potentially, materially affect the character of The Ambassador Theatre, a protected structure, and the character of features and fixtures attached to its exterior.
- (c) The referrer has not demonstrated how it would consistently ensure that the proposed works would not materially affect the character of The Ambassador Theatre, a protected structure, and the character of features and fixtures attached to its exterior. Accordingly, the prospect of such material affect exists. In these circumstances, this development is not an exempted development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) of the 2000 Act, hereby decides that the proposed works of repair to the exterior of The Ambassador Theatre, a protected structure, are development and are not exempted development.

Hugh D. Morrison
Planning Inspector

15th September 2022