

An  
Bord  
Pleanála

## Inspector's Report ABP319160-24

### Development

Permission for development at a site of approximately 0.16 hectares, a protected structure (RPS no. 6437). The proposed development will consist of (a) removal of (twentieth century) bollards on the Parnell Street frontage; (b) the removal of (twentieth century) bollards and railings on the Cavendish row frontage; (c) provision of hand-forged galvanised mild steel railings and piers with painted finish, on granite plinths, generally of overall height 1.5m, rising to 1.7m at pier locations, incorporating access gates; (d) provision of all other associated site development works above and below grounds.

### Location

Ambassador Theatre, Parnell Street, Dublin 1 (Former Ambassador Cinema / Former Rotunda Rooms).

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

4897/23.



**Applicant(s)** The Millennium Theatre Company.

**Type of Application** Permission.

**Planning Authority Decision** Refuse permission.

**Type of Appeal** First Party

**Appellant(s)** The Millennium Theatre Company.

**Observer(s)** 2 number observers

(1) An Taisce

(2) Dublin Civic Trust

**Date of Site Inspection** 17/10/24.

**Inspector** Anthony Abbott King.



## 1.0 Site Location and Description

- 1.1. The former Ambassador Cinema / Rotunda Rooms is located at the northern end of Upper O'Connell Street at the junction of O'Connell Street and Parnell Street. The building appears not to be in use.
- 1.2. The Rotunda building complex comprising the Rotunda Hospital, Ambassador Theatre and Gate Theatre are located within the south-eastern corner of Parnell Square. The building complex in part closes the vista north along O'Connell Street.
- 1.3. The Rotunda Hospital complex is an ensemble of classical predominantly stone façade buildings, including the main hospital building (eighteenth-century Richard Castle designed Lying-in-Hospital) and accretions, the Round Room (now Ambassador Theatre) and the Supper Room (now Gate Theatre).
- 1.4. The lying-in-hospital, which was opened in 1757 by Dr. Bartholomew Mosse, a surgeon, was the first maternity hospital in these islands. The pleasure gardens adjoining laid out in 1748 (opened 1749) in part financed the hospital construction.
- 1.5. The Rotunda (1764) and later Assembly Rooms (1784) were originally conceived as a social / entertainment complex to financially support the operation of the Lying-in-Hospital. The subject buildings have continued to act as an entertainment hub at the apex of O'Connell Street.
- 1.6. The Rotunda (Ambassador Theatre) was much altered in the nineteenth-century (Cristine Casey, the Buildings of Ireland 2005) and turned into a cinema in 1953.
- 1.7. The Ambassador Theatre is a protected structure (RPS Ref: 6437) and is included in the NIAH. The description clarifies the classical style rotunda theatre was built circa. 1764-7 and was designed by John Ensor. The building is of national importance. It is categorised in the NIAH as of architectural, artistic, cultural and historic interest.
- 1.8. The forecourt to the front of the Ambassador Theatre the subject of this appeal is notionally defined by bollards and has unhindered public access. It is not formally paved. The distinction between the granite paving of the footpath proper and the hard surfacing of the forecourt area is clearly visible. The subject area is unkempt.
- 1.9. The Luas operates proximate to the applicant site.
- 1.10. Site area is given as 1,600 sqm.



## **2.0 Proposed Development**

2.1. Permission for development at a site of approximately 0.16 hectares, a protected structure (RPS no. 6437). The proposed development will consist of the following:

- (a) removal of (twentieth century) bollards on the Parnell Street frontage;
- (b) the removal of (twentieth century) bollards and railings on the Cavendish row frontage;
- (c) provision of hand-forged galvanised mild steel railings and piers with painted finish, on granite plinths, generally of overall height 1.5m, rising to 1.7m at pier locations, incorporating:
  - (i) 1 no. vehicular service gate, (4.59m in width) on the Parnell Street frontage, adjacent to the Rotunda Hospital (a protected structure (RPS no. 6419 & RPS no. 6420). The gate will also be used by patrons to enter and exit shows;
  - (ii) 1 no. cyclist and pedestrian gate (4.59m in width) on the Parnell Street / Cavendish Row junction. The gate will be used by staff and patrons entering and exiting shows;
  - (iii) 1 no. blank gate (lift off panel in railings) (1.83m) to allow access to underground services on Cavendish Row, adjacent to the cyclist / pedestrian gate and;
  - (iv) 1 no. blank gate (lift panel in railings) (3.07m) to allow access to underground services opposite the former east entrance on Cavendish Row.
- (d) provision of all other associated site development works above and below grounds.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Refuse planning permission for the following reason:



(1) *Having regard to the Ambassador theatre being a Nationally Significant Protected Structure, and a landmark structure that terminates the Capital's principal thoroughfare, it is considered that the proposed erection of new railings to enclose the front of the site would severely negatively impact on its special character, setting and appearance. The erection of railings would set an undesirable precedent for similar such development in the O'Connell Street Architectural Conservation Area (ACA), would enclose an informal public space and seriously injure the visual amenity of the ACA. Accordingly, BHA7, Section 15.15.2.1 and Section 15.15.2.3 of the Dublin City Development Plan 2022-2028, would set an undesirable precedent for similar such development and would be contrary to the proper planning and sustainable development of the Architectural Conservation Area.*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The decision of the CEO of Dublin City Council reflects the recommendation of the planning case officer.

#### **3.2.2. Other Technical Reports**

- Conservation Section

The conservation officer recommends refusal of planning permission. The conservation report concludes as follows:

*The applicants have presented a case for enclosing the front site of the theatre as a way to halt anti-social behaviour. The theatre is, however, a notable historic landmark which terminates the northern vista along O'Connell Street. The erection of railings would screen the protected structure, resulting in a negative visual impact that, in the case of a Nationally important building, is unacceptable from a conservation standpoint. The shared space to the front site should continue to be part of the public realm and remain permeable.....*

- The Archaeology Section considers that the archaeological impact is considered to be low given the small scale of the development. No objection subject to condition.



- Drainage Division no objection subject to condition.
- Transportation Planning Division

The Transportation Planning Division reports that the existing configuration of the public space is the preferred option. Therefore, the Division has concerns with the principle of formalising a vehicular entrance on Parnell Street for serving the site within the proposed plaza area opposite the Luas Green Line. Insufficient information has been submitted to substantiate a vehicular access at this location having regard to the existing service yard to the rear and surrounding on-street loading bays. The principle of a formal vehicular entrance across the Luas track requires agreement and is subject to concern in regard to location. The Division would prefer to reposition the entrance further away from the junction toward the existing Rotunda Hospital exit. The Transportation Division recommends the following further information:

- In the matter of the submitted material, clarity in regard to interaction with the Swords to City Centre Core Bus Corridor Scheme (ABP Ref: HA06D.317121);
- In the matter of the configuration of the proposed railing and entrances, revised plans and sections showing the set back of the plinth and railings further from the carriageway (a minimum footpath of 4m with a 0.45m verge from the carriageway) demonstrating consistency with Section 4.3.1 of the Design Manual for Urban Roads and Streets (DMURS 2019) in the context of Policy SMT11, which seeks to expand and maintain the pedestrian network in the city;
- In the context of events and crowd control, clarity in regard to the use of the proposed plaza, including precautionary measures to ensure safe ease of movement, information on public lighting and security measures. The applicant should outline a schedule of times and days where the plaza area is open to the public during the day.
- In the context of Section 2.4 (Service Delivery and Access Strategy) and the potential for the proposed plaza to serve the Gate Theatre, the submission of a service management plan is required.



- In the context of the submitted Road Safety Audit and the potential use of the proposed plaza as a service area, clarity, including revised auto-tracking and plans, on the access and manoeuvre of vehicles within the enclosed area is required. An updated Road Safety Audit Stage 1 should accompany the response.
- In the context of waste collection and storage, clarity on the existing and proposed waste management on site.

It notes that the applicant engaged in pre-application discussions on the 28<sup>th</sup> September, 2022. The following concerns were communicated:

- Impact of serving
- Event Management
- Impact on Public Realm
- Competing mobility requirements at the junction.
- TII (Luas operations) no object subject to condition.

## 4.0 Planning History

The following recent planning history is relevant:

- Under Register Reference 5462/22 (ABP-318157-23) planning permission was refused for the removal of existing signage and the erection of 3 number wall-mounted static digital advertising signs mounted on the portico's attic storey and front elevation walls.
- Under Register Reference 0029/22 (ABP-312927-22) an exemption certificate was refused for external works including repair of parapets, plaster work and pillars.



## 5.0 Policy and Context

### 5.1. Development Plan

The relevant local planning policy document is the Dublin City Development Plan 2022-2028.

- **Zoning**

The zoning objective is Z8 (Map E) Georgian Conservation Areas:

*To protect the existing architectural and civic design character and to allow for limited expansion consistent with the conservation objective.*

The proposed development is located within the O'Connell Street Architectural Conservation Area (ACA) and is within the conservation zone red hatching.

The development site is within the O'Connell Street & Environs Area of Special Planning Control (2022).

The Ambassador Cinema (former Rotunda Rooms) is a protected structure.

- **O'Connell Street Architectural Conservation Area (2001).**

The following in the matter of Public Spaces is relevant:

*It is an objective to define and upgrade an identified network of public spaces and spatial settings for architectural set pieces and civic monuments throughout the Architectural Conservation Area, including:*

*The creation of a forecourt to the Rotunda/Ambassador Cinema/Gate Theatre and the Parnell Monument, by introducing new traffic controls at the junction of Parnell Street and O'Connell Street, and by extending and upgrading footpaths to Parnell Square.*

- **Built Heritage and Architectural Conservation Area policy context**



Chapter 11, Policy BHA2 (Development of Protected Structures) is relevant and provides that development will conserve and enhance protected structures and their curtilage. Policy BHA2 provides a list of criteria that need to be satisfied in the development of a protected structure in order *inter alia* to protect the character of the structure and its curtilage.

Chapter 11, Policy BHA7 (Architectural Conservation Areas) is relevant and states:

*(a) To protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA 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. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA. Please refer to Appendix 6 for a full list of ACAs in Dublin City.*

*(b) Ensure that all development proposals within an ACA contribute positively to the character and distinctiveness of the area and have full regard to the guidance set out in the Character Appraisals and Framework for each ACA.*

*(c) Ensure that any new development or alteration of a building within an ACA, or immediately adjoining an ACA, is complementary and/or sympathetic to their context, sensitively designed and appropriate in terms of scale, height, mass, density, building lines and materials, and that it protects and enhances the ACA. Contemporary design which is in harmony with the area will be encouraged.*

*(d) Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.*

*(e) Promote sensitive hard and soft landscaping works that contribute to the character and quality of the ACA.*



*(f) Promote best conservation practice and encourage the use of appropriately qualified professional advisors, tradesmen and craftsmen, with recognised conservation expertise, for works to buildings of historic significance within ACAs.....*

- **Permeability**

Chapter 8 (Sustainable Movement & Transport) Section 8.5.3 (Public Realm, Place Making & Healthy Streets and Section 8.5.4 (Accessibility for All) is relevant and encourage active travel and permeability.

Policy SMT8 states: Public Realm Enhancements -

To support public realm enhancements that contribute to place making and liveability and which prioritise pedestrians in accordance with Dublin City Council's Public Realm Strategy ('Your City – Your Space'), the Public Realm Masterplan for the City Core (The Heart of the City), the Grafton Street Quarter Public Realm Plan and forthcoming public realm plans such as those for the Parnell Square Cultural Quarter Development and the City Markets Area

Policy SMT11 states:

To protect, improve and expand on the pedestrian network, linking key public buildings, shopping streets, public transport points and tourist and recreational attractions whilst ensuring accessibility for all, including people with mobility impairment and/or disabilities, older persons and people with children.

- **Safety & Security**

Chapter 7 policy objective CCUV40 is relevant and states:

*To promote the development of a built environment and public spaces which are designed to deter crime and anti-social behaviour and which promote safety, as set out in the 'Your City Your Space' Public Realm Strategy 2012.*

- **Development Standards**

Chapter 15 (Development Standards) is relevant:

Section 15.4.2 (Architectural Design Quality) *inter alia* promotes through the use of high quality materials and finishes and the appropriate building form architectural



quality in development, which should positively contribute to the urban design and streetscape, enhancing the overall quality of the urban environment. In particular, development should respond creatively to and respect and enhance its context.

*Imaginative, innovative and contemporary architecture is encouraged in all development proposals, provided that it respects Dublin's heritage and local distinctiveness and enriches the city environment.* Through its design, use of materials and finishes, development will make a positive contribution to the townscape and urban realm, and to its environmental performance.

Section 15.15.2.1 (Architectural Conservation Areas) *inter alia* states many Architectural Conservation Areas (ACA's) contain significant groupings of protected structures, streetscapes and views and vistas of significance as well as buildings that individually may be of local significance, but collectively would have a greater significance as a group.

Section 15.15.2.2 (Conservation Areas) *inter alia* states Conservation Areas include Z8 (Georgian Conservation Area) and Z2 (Residential Conservation Area) zones, as well as areas identified in a red hatching on the zoning maps which form part of the development plan. The criteria guiding development include respecting the existing setting and character of the surrounding area.

Section 15.15.2.3 (Protected Structures) clarifies that the inclusion of a structure in the Record of Protected Structures does not prevent a change of use of the structure, and/or development of, and/or extension to the structure, provided that the impact of any proposed development does not adversely affect the character of the Protected Structure and its setting.

- **Architectural Heritage Protection Guidelines**

In terms of national guidance - Architectural Heritage Protection Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht are relevant.

## **5.2. EIA Screening**

5.3. The proposed development is not within a class where EIA would apply.



## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal, prepared by Tom Philips Associates, are summarised below structured under the following sub-headings:

#### *Motivation to re-instate railings*

- The forecourt space in front of the entrance to the Ambassador Theatre is both privately-owned and privately maintained by the Rotunda Hospital in the first instance and by the applicant (lessor) in the second.
- Public liability arises in the owner / lessor responsibility for the subject space, which is open to unhindered public access.
- Maintenance and cleaning are inhibited by the frequent hostility of those unaware and often oblivious to the fact that they are injecting drugs, vomiting, urinating and defecating on privately owned and maintained property. The appeal statement illustrates same with submitted photographs.
- The Dublin riots of the 23 November, 2023 are cited as evidence of extreme behaviours and the need for an appropriate response.
- The need to reinstate the railings arises from the anti-social behaviour that is putting the staff, public and building at risk. The railings will protect the threats posed in particular the fires in the niche to the west of the entrance. The anti-social behaviour is contributing to the erosion and damage of the historic fabric of the building and its setting.
- There is a duty of care the owners and occupiers of protected structures must discharge under Section 58(1) of the Planning and Development Act 2000 (as amended) to protect such structures from endangerment. The issue of anti-social behaviour is one addressed by many public buildings.
- The appellant cites public buildings / locations in the vicinity that have introduced measures against anti-social behaviour, comprising control entry to the An Bord Pleanála offices on Marlborough Street, restrictions by Dublin



City Council to the access to the rear of the Civic Offices and, the closure of public parks at night including the Garden of Remembrance to the north of the Rotunda building complex.

- The appellant gives examples of laneway closures motivated by the elimination of anti-social behaviour including the recent closure of Harbour Court off Abbey Street.
- The appellant observes that public monuments, including the Cavendish Row Fountain, in the vicinity are the foci of anti-social behaviours.
- The proposal is to provide controlled access to the forecourt of the Ambassador Theatre to mitigate anti-social behaviour by the re-insertion of railings and access gates in order to reregulate access to the space. The precedent of controlled access to the Garden of Remembrance is cited.
- All parties are in agreement that the Ambassador Theatre is a building of historical and architectural importance. It is not in the best interests of the building that it remains closed. However, from a functional perspective the premises is now closed and will in likelihood remain closed until the leaseholder considers it safe to reopen.

#### *Historical justification*

- The subject space was enclosed for 169 years and has been open for 71 years. The forecourt was previously enclosed circa. 1784-1953. The railings were in situ 98 years longer than the period they have been removed. Historic views of the Rotunda building complex in the eighteenth-century and nineteenth-century evidence the railings.
- The proposed reinstatement of the railings is to protect the building, which is a protected structure, and for aesthetic reasons. The proposal is supported by the submitted architectural report prepared by Lindsay Conservation Architects (October 2023).
- The Dublin City Council assistant conservation officer cites the 1817 image by Fredrick Brocas (View of the Lying-in Hospital and Rutland Square) from Sackville Street (O'Connell Street) as evidence of the direct connection between the Ambassador Theatre and the public realm.



- The assistant conservation officer assessment concludes that the erection of the railings would screen the protected structure, a nationally important historic building / landmark closing the northern vista along O'Connell Street, and would result in an unacceptable visual impact. Eroding the historical relationship between the theatre and the public realm.
- The appellant states that the sole image evidenced is an early nineteenth-century illustration. A review of a series of images of the Ambassador Theatre and map extracts compiled by Mr. Lindsay shows the evolution of the building and the forecourt as an enclosed space over time.
- The appellant argues that the contemporary setting of the Ambassador Theatre is obstructed *inter alia* by the Luas pole support and overhead wire network when viewed from O'Connell Street Upper. Therefore, the relationship illustrated in by Fredrick Brocas circa. 1817 cannot be replicated.
- The appellant cites the Rutland Monument (1791-1792) on Merrion Square as an example of the introduction of railings to protect the integrity of the monument, which had been subject to vandalism.

#### *Architectural Heritage Protection Guidelines*

- The Guidelines do not preclude the works proposed.
- The appellant cites a previous Board determination on a Section 5 reference (ABP312927-22). The appellant concurs with the assessment of the planning inspector. The Board is referred to the architectural appraisal prepared by Mr Lindsay.
- In the context of a claim by a third-party that the submitted documentation, in terms of the level of detail shown on the drawings, is inadequate, counter claims that Mr Lindsay FRIAI Grade 1 conservation architect has been and remains an integral member of the development team since the commencement of the project.
- Mr Lindsay has prepared annotation of the buildings key architectural evolutionary stages (Figure 4.1 of the appeal statement comprises an annotated historic photograph).



- The planning history of the site is testament to the extensive works undertaken to demonstrate the degree of academic research that was available to inform the proposal the subject of appeal.

#### *Conservation policies and objectives of the Dublin City Development Plan*

- The proposal would contribute positively to the character and distinctiveness of the Ambassador Theatre. The proposal provides the opportunity to protect and enhance the character and appearance of the building and its curtilage including the protection of the principal tree on site.
- The proposal would not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the O'Connell Street ACA.
- A traditional railing design that would contribute to the ACA was prioritised rather than a contemporary design approach on the advice of the conservation officer subsequent to a pre-planning Section 247 meeting.
- The works proposed are fully reversible.
- The physical scale of the building itself is of such visual prominence / dominance in the streetscape that the proposed railings do not in any way prevent the overall building being appreciated in the broader context.
- The appellant has sought to promote best practice and encourage the use of appropriately qualified professional advisors, tradesmen and craftsmen with recognised conservation expertise.

#### *O'Connell Street & Environs Scheme of Special Planning Control (2022)*

- The document does not mention railings.

#### *Submitted details*

- It was decided that the reinstated railings should be based on appropriate historic rather than modern design following design studies and consultations with Dublin City Council.
- The planning authority assessment gives little weight to the photomontages prepared by Redline Studios Limited. The photomontage before and after image is included in the appeal statement.



- The use of mild steel material finish as an alternative to wrought iron is supported by the simple answer wrought iron is no longer made commercially. This is evidenced by talking to Edward Bisgood in Bushy Park Ironworks.
- It is appropriate that wrought iron as a scarce material be used for the repair of extant wrought iron railings. Furthermore, given that the railings cannot be reinserted on the historic line circa.1842, the use of a modern material such as steel in a modern location aligns with best conservation practice.
- It is claimed that suitably forged and painted steel railings will be similar to wrought iron railings visually.

*Other*

- The applicant is keen to reduce the size of the elevation signage, which is the subject of a separate application under appeal.

## **6.2. Applicant Response**

N/A

## **6.3. Planning Authority Response**

The Conservation section of the planning authority has submitted the following comments:

- Following review of the appeal submission the Conservation section reiterates that the theatre is a notable historic landmark which terminates the northern vista along O'Connell Street. The erection of railings would screen the protected structure, resulting in a negative visual impact that, in the case of a nationally important building, is unacceptable from a conservation standpoint. The shared space to the front of the site should continue to be part of the public realm and remain permeable.
- The conservation section reiterates that because of the national importance of the built heritage complex, alterations to the public space to the front of the theatre would be best considered under a holistic plan for landscape design rather than via incremental changes that would impact the curtilage and wider Architectural Conservation Area.



- The Board is respectfully requested to uphold the decision of the planning authority and refuse permission as recommended in the planning case officer report.

#### 6.4. Observations

There are two number observations:

(1) An Taisce have made the following observations summarised below:

- The observer wishes to express strong support for the decision of the planning authority to refuse permission for the proposed development. The Rotunda Hospital complex is an ensemble of classical stone façade buildings, including the main hospital building (eighteenth-century Richard Castle designed Lying-in-Hospital) and accretions, the Round Room and the Supper Room (now Gate Theatre), warrant a high level of care and consideration in their alteration or addition.
- The subject buildings are regarded as internationally significant (NIAH). They are protected structures.
- The setback paved area to the front of the Ambassador Theatre (formerly Ambassador Cinema and originally the Rotunda Room) is a long established public space. It appears this area was not railed or separate from the street when the building was constructed circa. 1767. However, railings were subsequently erected in the middle nineteenth-century and removed 70 years later.
- The public space in front of the Ambassador Theatre has potential add value to the ACA public realm if managed and maintained properly. The use of the space as an outdoor seating area as an extension of a café or restaurant would animate the space and create passive security to dissuade anti-social behaviour.
- The proposal to seal off and privatise this long-established public space should be refused planning permission.

(2) The Dublin Civic Trust have made the following observations summarised below:



- The observation reiterates the originally points made in the submission to Dublin City Council and is a response to the assertions made by the applicants agent Tom Philips + Associates.
- The Rotunda building complex represent a large-scale ensemble of Georgian public entertainment rooms. They collectively (including the Rotunda Hospital) form an urban set-piece of outstanding architectural importance. The former Ambassador Cinema and abutting buildings are of national importance and the ensemble terminates the capital's main thoroughfare.

*Negative impact on Character of Protected Structure*

- The applicant simply overlooks the considered architectural intent of the building(s), which largely present today as it did at the time of its construction and indeed a design arrangement that prevailed for half a century until the railings were erected in the nineteenth century.
- The Rotunda complex and the GPO may be considered as the primary foci of Dublin's north Georgian landscape, in the environs of the River Liffey and the O'Connell Street ACA. It is claimed that works and interventions to these buildings have social, cultural and architectural significance and require the highest quality specification and design.
- The core deficiency of the development proposal is the concept of enclosing the subject public space with boundary railings. It is claimed the concept has a 'dubious' historical precedent.
- The original nineteenth-century railings were questionable in terms of their civic design adversely impacting the architecture of the building(s) at the key urban intersection of O'Connell Street (former Sackville Street) with Parnell Square (former Rutland Square).
- The removal of the nineteenth-century railings in the mid-twentieth-century restored the original design principles of the historic complex of buildings and its interaction with the public realm. The existing configuration should be maintained and should be enhanced through landscape proposals.
- The observer highlights the architectural significance of the temple-like entrance pavilion to the Rotunda Room designed by James Gandon to



strategically anchor the northern end of O'Connell Street as it transitions into Parnell Square.

- The columned entrance pavilion as a civic portal directly addresses the public realm with the round room rotunda as an imposing amphitheatre raising behind.
- The physical relationship between the ensemble of buildings was originally expressed with a series of oil-fuelled 'lamp irons' mounted on handsome cylindrical plinths positioned in the forecourt heralding the entrance providing a preamble threshold with the public realm and forming a dignified vista terminating O'Connell Street (Sackville Street).
- The Patrick Abercrombie draft development plan for Dublin 1922 proposed to retain the pavilion, remove the railings and replicate on the entire neo-classical design on the east side of Parnell Square.
- The entrance pavilion and setting make a positive contribution to the O'Connell Street ACA. The architectural vigour of the James Gandon designed pavilion from its strongly articulated rustication to the full shafts of the entrance columns raising from the ground can be enjoyed, in particular from the western side of O'Connell Street but also from the median and the eastern pavement outside the Gresham Hotel, unobstructed by boundary railings.
- The proposal to screen the entire building – not just carefully considered areas – with railings fundamentally undermines its special design character.
- The entrance pavilion serves as a natural draw to the upper end of O'Connell Street. A key tenet identified for enhancement in the ACA policy. The proposal would obscure the special characteristic with railings, which would adversely impact the setting of the building and the ACA.
- The proposal would be inconsistent with development plan policy BHA2, which seeks *inter alia* that new development does not adversely impact the curtilage or the special character of a protected structure.

#### *Design & Specification*



- The observer claims that the applicant has provided inadequate information to assess the proposal. The drawings submitted are not prepared by a conservation architect.
- The fabrication of the railings is unclear. The proposal to use galvanised mild steel on a large scale around a historic building is questionable. There is no detailed design of the granite plinth walls. The proposal given its sensitive historic context requires the highest specification.
- The design is unsatisfactory including the misalignment of the entrance gates with the entrance pavilion front. The conservation architect makes extensive assessment of lamp irons.
- The applicant misses the opportunity to incorporate reproduction lamp iron (as installed at Mountjoy Square) *inter alia* by reason of anti-social behaviour.

#### *Railings Rationale – forecourt*

- The applicants stated motivation for the development is anti-social behaviour, which it is claimed is endangering the protected structure. The applicant has not sufficiently evidenced anti-social behaviour to justify the proposed railing of the public space to the west, south and east within a defensive enclosure
- The staff of Dublin Civic Trust have comprehensive and extensive daily experience of the building complex and evidence that anti-social behaviour has been solely limited to the area in front of the east colonnade of the Rotunda Hospital.
- The observer informs the Board that the project as designed by way of its enormous scale and considerable expense must have an undeclared parallel motive for the use of the enclosed space as a commercial area.
- There is no information provided in relation to the design or use of the enclosed space. There is no landscaping or repaving proposed. The applicant does not deal with this significant issue anywhere in the appeal.
- The applicant takes the objective of the ACA to create a forecourt to the Rotunda / Ambassador Cinema / Gate theatre and the Parnell Monument out of context. The observers claim that the ACA policy envisages a public forecourt as part of an upgraded public realm.



### *Enclosure of Public and Semi-Public Spaces*

- The observer claims that the forecourt in front of the Ambassador has been in public use for 70 years. It is claimed that the subject space has become part of the de facto public estate. It may be a public right of way that should be defended in the civic interest.
- The Luas cross city was designed project was designed on the basis that pedestrians could use the Rotunda room forecourt as the resulting pavement is narrow, cluttered and often congested.
- The amenity of the public realm and the presentation of heritage assets must be harnessed to best advantage. The forecourt of the Rotunda must be considered as a part of a wider historically informed landscaping strategy that addresses the entire grounds and curtilage of the Rotunda building complex.
- The observer has sympathy with the anti-social activity and the associated detritus that the applicant must contend. However, this is true of countless business owners and building occupiers in the city and does not justify enclosure and extinguishment of right of way. It is claimed that designing out such activity through enclosure, removal of amenity and extinguishment of public space is not sustainable.

### *Alternative Solutions*

- The observer proposes two alternatives that would alleviate the problem:
- (1) The space should be taken in charge by Dublin City Council. Alternatively an arrangement could be negotiated for Dublin City Council to clean and maintain the space.
- (2) It is possible to reconfigure the existing boundary railing, subject to exemplary reproduction of the 1750's hospital railings, between the hospital and the Rotunda forecourt to create a new boundary convex arch inside of the existing concave arch, incorporating part of the forecourt to enclose most of the space to the west of the pavilion entrance.



## 7.0 Assessment

- 7.1. The following assessment covers the points made in the appeal submission, the third party observations and the reason for refusal and encapsulates my overall consideration of the application. It is noted there are no new substantive matters for consideration.

### *Introduction*

- 7.2. The proposal is for erection of 'hand forged galvanised steel railings' raised on a granite Irish stone plinth with an overall height of approximately 1.5m (1409mm as read from drawings) forming a defence space or enclosure within the curtilage of the Ambassador Theatre (former Ambassador Cinema / Rotunda Rooms), which is in the private ownership of the Rotunda Hospital.
- 7.3. The proposed railings would incorporate gate piers approximately 1.7m in height. There would be a number of access points denoted by 'hand forged mild steel' gates. A vehicular access gate would be located on the Parnell Street frontage. A pedestrian and cycle gate on the Parnell Street / Cavendish Row corner (nearest to pedestrian crossings) and two number 'blank' gates allowing service access (one of the blank gates would be opposite the former east entrance to the building).
- 7.4. The existing property boundary is notionally demarcated by modern bollards and in part railings (on the Cavendish Row frontage), which would be removed. The existing change in hard surfacing between the public footpath proper and the forecourt evidences a boundary. The subject space has been open for 71 years.
- 7.5. The forecourt was previously enclosed (circa. 1850-1953). The motivation for re-enclosure is given as anti-social behaviour active within the forecourt. The proposed development would provide for controlled access to the forecourt instead of the existing open access.
- 7.6. The substantive matter is the enclosure of the privately owned forecourt, which presently forms part of a publicly accessible space in front of the entrance to the Ambassador Theatre. The publicly accessible area extends to the west and east of the entrance pavilion of the Theatre building.
- 7.7. The planning authority refused permission given that the proposed erection of new railings to enclose the front of the site would severely negatively impact the special



character, setting and appearance of the Ambassador Theatre a nationally significant protected structure, which terminates the view north from O'Connell Street. Furthermore, the erection of railings would set an undesirable precedent for similar such development in the O'Connell Street Architectural Conservation Area (ACA), would enclose an informal public space and seriously injure the visual amenity of the ACA.

7.8. The relevant planning matters arising are interrogated in my assessment under the following main headings below:

- Zoning
- Area of Special Planning Control
- Anti-social behaviour
- Historical precedent
- Protected structure status
- Architectural Conservation Area (ACA) designation
- Architectural Heritage Protection Guidelines, design and finishes
- Vehicle and pedestrian access and operational matters

#### *Zoning*

The proposal is located in an area zoned Z8 (Georgian Conservation Areas), which seeks to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.

7.9. Works associated with cultural recreational buildings and uses are permissible where compatible with the overall policies and objectives of the zone.

#### *O'Connell Street and Environs Scheme of Special Planning Control*

7.10. I note that the proposed development is located within the O'Connell Street and Environs Scheme of Special Planning Control (2022). Part 4 (The Build Fabric) has as a key objective to secure the retention of the historic fabric of the area.



7.11. The Ambassador Theatre appears not to be in use. Dublin City Council is committed to promoting the continued beneficial use and maintenance of older building in order to prolong their life and ensure their future preservation.

7.12. I consider that the development proposal should be assessed within an evolutionary context that recognises that historic buildings in the area have been subjected to continual change over the years. Furthermore, finding new and compatible new uses where required is vital to the health and preservation of older buildings and to the improvement of the appearance of the streetscape.

#### *Anti-social behaviour*

7.13. The appellant claims that the need to reinstate the railings arises from anti-social behaviour that is putting the staff, public and building at risk. The level of anti-social behaviour experienced by the operator and staff of the Ambassador Theatre is documented. The appeal statement is illustrated by images *inter alia* of littering, detritus of drug taking and faeces. The appellant states that the theatre premises is now closed and will in likelihood remain closed until the leaseholder considers it safe to reopen.

7.14. The third party observers acknowledge that there is anti-social activity in the city centre and specifically anti-social behaviour at the applicant site. Dublin Civic Trust claim that they have comprehensive and extensive daily experience of the Rotunda building complex and evidence that anti-social behaviour is solely limited to the area in front of the east colonnade of the Rotunda Hospital.

7.15. It is claimed that designing out such activity through enclosure, removal of amenity and extinguishment of public space is not sustainable. I acknowledge in theory that privatisation or closure of public space may be counter-productive.

7.16. I note Policy Objective SMT8 and Policy Objective SMT11 of the development plan, which seeks to support public realm enhancement and to expand and maintain the pedestrian network across the city. It is considered that there is the high benchmark of justification for the enclosure of publicly accessible space and its disintegration form the pedestrian network.

7.17. Section 7.5.8 (Public Realm) Chapter 7 (City Centre, Urban Villages and Retail) *inter alia* provides for public safety stating that public realm must be carefully managed and maintained. It should be decluttered and deter anti-social behaviour and crime to



ensure people feel safe. Adjacent buildings should activate, animate and overlook the public realm thereby making the spaces more attractive and provide a sense of security to people using the space or passing through it.

- 7.18. I note that the critical criteria governing the provision of a positive experience of public space is not present in the instance of the subject space. On the day of my site visit 17/10/2024, I witnessed street drinking, loitering and inebriation / intoxication within the forecourt space. The critical factor of adjacent building(s) activating, animating and overlooking the forecourt of the Ambassador Theatre is absent.
- 7.19. I note for clarification that I saw a number of instances of anti-social behaviour in the timeframe I was present on site from approximately 1.30 pm -2 pm. I evidenced anti-social behaviours in front of the entrance pavilion to the Ambassador Theatre and to the west of the entrance in the recess between the entrance and the railings and colonnade of the Rotunda Hospital. Furthermore the actors extended their behaviours into the area east of the entrance pavilion. I can conclude that to operate a business in this environment is challenging.
- 7.20. Policy Objective CCUV40 of the Dublin City Development Plan 2022-2028 promotes the development of a built environment and public spaces which are designed to deter crime and anti-social behaviour and which promote safety.
- 7.21. The appellant's justification for enclosure is based on the creation of a protective ante-space between the entrance to the theatre and the public realm in order to protect patrons, the public and the building itself, which has been the subject of graffiti, fire risk and unkempt context. The appellant cites present in the enclosure and privatisation of public space motivated by action against anti-social behaviour.
- 7.22. Furthermore, the appellant states that there is an onus on the occupier to protect the building as a protected structure. A mandatory requirement for owners and occupiers of protected structures to discharge under Section 58(1) of the Planning and Development Act 2000 (as amended) a duty of care to protect such structures from endangerment is cited.
- 7.23. The conservation report (Section 5), Conservation Considerations for Proposed Railings at the Ambassador Theatre, Parnell Street Dublin (October 2023) prepared by Lindsay Conservation Architects, states that anti-social behaviour is causing



damage to the eighteenth-century building fabric. The report considers that reinstating the railings to prevent this behaviour is reasonable and desirable averting this behaviour and eliminating further damage to the fabric, which is best conservation practice.

- 7.24. The appellant cites examples of actions taken against anti-social behaviour by the owners / occupiers of public buildings including actions at the offices of An Bord Pleanála and Dublin City Council. The appellant gives examples of laneway closures motivated by the elimination of anti-social behaviour including the recent closure of Harbour Court off Abbey Street. I consider that an interrogation of a re-definition of the space as a semi-public space is valid.
- 7.25. Finally, one of the observers advocates alternative solutions to addressing anti-social behaviour, for example, the Rotunda forecourt should be taken in charge by Dublin City Council or a Dublin City Council cleaning regime should be extended to the privately owned forecourt.
- 7.26. Furthermore, it is advocated that the existing boundary railing between the hospital and the Ambassador Theatre forecourt could be reconfigured to create a new boundary convex arch inside of the existing concave arch as a solution to anti-social behaviours, which it is claimed are concentrated to the west of the entrance in the recess between the entrance and the Rotunda Hospital.
- 7.27. I note the observations of third parties in this matter. However, I respectfully inform the Board that the subject of appeal is a development specific proposal.
- 7.28. The appeal relates to the comprehensive enclosure of the forecourt area south, east and west of the entrance to the Ambassador Theatre, as advertised and submitted to the planning authority for assessment. I consider that the development proposal the subject of this appeal is consistent with Policy Objective CCUV40 of the Dublin City Development Plan 2022-2028 to support a built environment design that would deter crime and anti-social behaviour and promote safety.

#### *Historical Precedent*

- 7.29. The appellant claims that the forecourt was enclosed for 169 years and has been open for 71 years. It is claimed the forecourt was previously enclosed circa. 1784-1953. Thus it is claimed the railings were in situ 98 years longer than the period they



have been removed. Historic views of the Rotunda building complex in the eighteenth-century and nineteenth-century evidence the presence of railings.

- 7.30. The Dublin Civic Trust argue that the existing open configuration should be maintained and that the original nineteenth-Century railings had an adverse impact on the subject ensemble of buildings and their interaction with the public realm. The removal of railings in the mid-twentieth-century restored the original eighteenth-century design principles.
- 7.31. The Dublin City Council conservation officer states that the erection of the railings would screen the protected structure, a nationally important historic building / landmark closing the northern vista along O'Connell Street, and would result in an unacceptable visual impact. A Samuel Fredrick Brocas image circa. 1817 (Figure 4.3 of the appeal statement) is evidenced, which illustrates the direct relationship between the theatre and the public realm at that time.
- 7.32. The conservation officer concludes that the insertion of railings would erode this historic relationship and that the development should be refused allowing the shared space to the front of the site to continue to be part of the public realm and remain permeable.
- 7.33. The appellant claims that the image supporting the conservation officer assessment is the early nineteenth-century illustration by Brocas circa. 1817. The appellant argues this illustration needs to be assessed within a broader historical visual context. A review of a series of images of the Ambassador Theatre (former Rotunda Rooms) and map extracts compiled by Mr. Lindsay shows the evolution of the building and the forecourt as an enclosed space over time.
- 7.34. Furthermore, the appellant claims that the contemporary setting of the Ambassador Theatre is obstructed *inter alia* by the Luas pole supports and overhead wire network when viewed from O'Connell Street Upper. Therefore, the relationship illustrated in by Fredrick Brocas circa.1817 cannot be replicated. It is also noted that the 1817 illustration shows that the Rotunda Hospital railings extended to the entrance pavilion to the theatre (Figure 4.10 of the appeal statement).
- 7.35. I note that railings extent to the south east corner of the entrance pavilion by 1829 (Figure 4.12 (Bartlett) of the appeal statement). The railings extend along the front of the entrance by 1842 (Figure 4.13 (J. & E. Harwood) of the appeal statement). The



ordnance survey published 1847 (surveyed 1838-1847) clearly shows railing and gates around the building (Figure 4.14 of the appeal statement). An early photograph circa. 1846-1848 clearly illustrate the railings, plinth and gates (Figure 4.15 of the appeal statement). The railings remained in situ until removed circa. 1953.

- 7.36. I consider that the proposed development requires a broader analysis than its visual impact. The appellant argues that the purpose of the railings is principally functional. It is claimed the subject space is not safe for patrons or the public and that there is a need to remove the opportunity for anti-social behaviour in a space that remains in private ownership. It is considered that the function of the space in front of the Ambassador Theatre is a significant planning consideration.

#### *Historical Context*

- 7.37. The original Round Room (1764) was to the north of Sackville Street / Gardiner Mall. The present Upper O'Connell Street. O'Connell Street was developed piecemeal and in two distinct phases. Gardiner Mall (laid out from 1749) was effectively a residential cul-de-sac until the late 18th century - *elongated residential square rather than a busy commercial thoroughfare*. However, with the construction of Lower O'Connell Street (Lower Sackville Street) between 1780-1800 and the subsequent construction of Carlisle Bridge (O'Connell Bridge) opened in 1795 the present principal north-south axis of the city was created.
- 7.38. There was a dramatic change in the spatial relationship of the present Upper O'Connell Street (Sackville Street / Gardiner Mall) within the urban street network when Upper O'Connell Street was extended south. The completion of Lower O'Connell Street circa.1800 from Abbey Street to the Quays with a new bridge over the River Liffey transformed the street to become the principal thoroughfare of the nineteenth-century city.
- 7.39. It is considered that the historical context is represented by an evolving urban environment rather than a snapshot at any given date. The forecourt area is private property and is not part of the public estate. I consider that the evidence clearly documents a dynamic and fluid relationship between the Rotunda / Assembly Rooms and the public realm, which does not militate against the re-enclosure of the forecourt by the erection of a boundary plinth and railings.



*Protected structure status*

- 7.40. The appellant claims that proposed reinstatement of the railings is to protect the building and for aesthetic reasons. The works proposed are fully reversible. The proposal is supported by the submitted architectural report prepared by Lindsay Conservation Architects (October 2023).
- 7.41. The Ambassador Theatre is a protected structure and is included in the NIAH. The NIAH description clarifies that the classical style rotunda theatre was built circa. 1764-7 and was designed by John Ensor. The building is of national importance. It is categorised as being of architectural, artistic, cultural and historic interest.
- 7.42. Policy BHA2 (Development of Protected Structures) of the Dublin City Development Plan 2022-2028 provides that development will conserve and enhance protected structures and their curtilage. Policy BHA2 provides a list of criteria that need to be satisfied in the development of a protected structures.
- 7.43. Section 15.15.2.3 (Protected Structures) of the Dublin City Development Plan 2022-2028 *inter alia* states that the inclusion of a structure in the Record of Protected Structures does not prevent a change of use of the structure, and/or development of, and/or extension to the structure, provided that the impact of any proposed development does not adversely affect the character of the Protected Structure and its setting
- 7.44. The appellant states that the planning authority assessment gives little weight to the photomontages prepared by Redline Studios Limited. The photomontage illustrating the before and after image of the proposal is included in the appeal statement. Furthermore, the appellant claims that physical scale of the building itself is of such visual prominence / dominance in the streetscape that the proposed railings do not prevent the overall building being appreciated in the broader context
- 7.45. The Redline Studios Limited Ambassador Theatre photomontages (21 September, 2023) are not assessed by the planning case officer. I note that the photomontages are contained within the document pack submitted to the planning authority.
- 7.46. The Dublin City conservation officer report states the policy context including the protected structure status of the building. The report *inter alia* notes that the permeable space to the front of the Ambassador Theatre, though in ownership be the hospital, lies within the public realm and should in the opinion of the conservation



officer be allowed to function and be viewed as originally intended (as discussed above).

- 7.47. The conservation officer assessment of the impact of the re-instatement of railings on the protected structure principally relate to the original and existing direct physical relationship of the building with the street (public realm), the national significance of the building and the requirement for a holistic plan for landscape design rather than incremental changes that would impact the curtilage and wider conservation area (discussed below).
- 7.48. I have reviewed the Ambassador Theatre photomontages (21 September, 2023). I note the conservation impact assessment contained in Section 6 of the conservation report prepared by Lindsay Conservation Architects. I also reference to the national architectural protection guidelines.
- 7.49. Section 13.5 (Development within the Curtilage of a Protected Structure) of the Architectural Heritage Protection Guidelines for Planning Authorities (2011) *inter alia* state that the relationship between the protected structure and the street should not be damaged. *New works should not adversely impact on views of the principal elevations of the protected structure.*
- 7.50. It is considered that the incorporation of stone plinths, iron railings and access gates are a ubiquitous feature of the period building stock in the city both domestic and public buildings advertise same. The facades of these buildings remain highly visible while the railings provide a practical demarcation creating a defence space between the building facade and the public realm threshold. I do not consider that the proposal would act as a visual barrier to the view of the elevation of the Ambassador Theatre, for example, in the manner of a capped and rendered wall of the same height (1.5m).
- 7.51. I note that the enclosure comprises a granite stone plinth and alternate solid and void steel railings where the void is greater than the alternating solid rail. I note the relative height of the railings to the height of the elevation of the protected structure building façade. Furthermore, I note the location of the boundary railings set back from the building elevation, which would provide an open forecourt inside the enclosure as a redefined setting to the protected structure.



7.52. I consider that the enclosure of the front curtilage of the Ambassador Theatre would not have a significant adverse visual impact on the protected structure itself (views of the principal elevations) or its curtilage given the design, height and location of the proposed enclosure.

*Architectural Conservation Area (ACA) designation*

7.53. Policy BHA7 (Architectural Conservation Areas) of the Dublin City Development Plan 2022-2028 *inter alia* states to protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA).

7.54. The O'Connell Street Architectural Conservation Area (2001) *inter alia* seeks to define and upgrade an identified network of public spaces and spatial settings for architectural set pieces and civic monuments. The document provides for the creation of a forecourt to the Rotunda / Ambassador Cinema / Gate Theatre and the Parnell Monument, by introducing new traffic controls at the junction of Parnell Street and O'Connell Street, and by extending and upgrading footpaths to Parnell Square.

7.55. Dublin Civic Trust claims the applicant takes the objective of the ACA to create a forecourt to the Rotunda / Ambassador Cinema / Gate Theatre and the Parnell Monument out of context. The Trust states that the forecourt is envisaged as a public space. Furthermore, no detail as to the use or paving of the area inside the railings is provided by the applicant.

7.56. The proposal would provide controlled access to the forecourt of the Ambassador Theatre to mitigate anti-social behaviour by the re-instatement of railings and access gates in order to reregulate access to the space. The precedent of controlled access to the Garden of Remembrance is cited by the appellant.

7.57. I note the Garden of Remembrance is open from 9.00am to 4.00pm in October and access is controlled by an large horizontal emphasis entrance gate.

7.58. I do not consider that the objective of the O'Connell Street Architectural Conservation Area (ACA) document precludes the redefinition of the curtilage of the Ambassador Theatre, which may in future form part of a more comprehensive public works scheme.

7.59. Dublin Civic Trust informs the Board that the project as designed by way of its enormous scale and considerable expense must have an undeclared parallel motive



for the use of the enclosed space as a commercial area. The observer notes that this matter is not dealt with anywhere in the appeal.

- 7.60. The third party observers acknowledge the instance of anti-social behaviour and recommend that the subject space should be managed and maintained properly and enhanced through landscape proposals. However, it is claimed that the forecourt of the Rotunda must be considered as a part of a wider historically informed landscaping strategy that addresses the entire grounds and curtilage of the Rotunda building complex. This is a valid observation.
- 7.61. The Dublin City Council conservation officer is of the opinion that alterations to the public space to the front of the theatre would be best considered under a holistic plan for landscape design given the national importance of the built heritage complex rather than via incremental changes that would impact the curtilage and wider Architectural Conservation Area (ACA).
- 7.62. It is considered that a re-definition of the space as a semi-public space as envisaged by the applicant is an interrogation of an alternative option to optimise the function of the subject area. I note the ACA objective to create a public forecourt to the Rotunda building complex. I note the Dublin City Council conservation officer response to the appeal. I also note the concern of third parties in the matter of the function of the enclosed space within the re-erected railings.
- 7.63. I consider on balance given the urban location, prominent visibility and historical context and the scale of enclosure proposed that a piecemeal development as proposed is sub-optimal. However, I do not consider that the proposal would adversely impact the special interest and character of the O'Connell Street Architectural Conservation Area.

*The Architectural Heritage Protection Guidelines, Design and material finish*

- 7.64. It is the policy of the development plan that development within or affecting an Architectural Conservation Area (ACA) must contribute positively to its character and distinctiveness and take opportunity to protect and enhance the character and appearance of the area and its setting. I consider that the design and material finish of the proposal is a significant planning consideration.
- 7.65. The appellant claims to promote best practice and to encourage the use of appropriately qualified professional advisors, tradesmen and craftsmen with



recognised conservation expertise. The subject conservation report is prepared by Mr Lindsay - an RIAI Grade 1 conservation architect. It is claimed Mr Lindsay is an integral member of the development team from the commencement of the project.

- 7.66. I consider that the application provides an appropriate level of documentation in order to assess the proposed works to the protected structure and within the architectural conservation area as required by the development plan and the Architectural Heritage Protection Guidelines for planning authorities (2011).
- 7.67. Section 15.4.2 (Architectural Design Quality) of the Dublin City Development Plan 2022-2028 *inter alia* provides for Imaginative, innovative and a contemporary architecture response in all development proposals conditional on respect for heritage and local distinctiveness. Furthermore development through its design, use of materials and finishes should enrich the city environment making a positive contribution to the townscape and urban realm and to its environmental performance.
- 7.68. The appellant references the pre-application Section 247 meeting (25/08/2022) with the planning authority in a justification of the design approach. It is claimed that the applicant had originally favoured a contemporary design. However, the conservation officer advised otherwise. Instead a traditional railing design that would make a positive contribute to the ACA was prioritised – see Section 4.0 (Railings and Lanterns) of the submitted conservation report.
- 7.69. The re-instatement railings due to modern alterations to the public carriageway, pavements, service access and the arrival of the Luas would not be located on the original alignment. The concern of the development team was that if the historic railings were to be precisely replicated on a different line it could be interpreted as falsifying history. The proposed reinstatement is located 1m from the line of the original railings as defined by the railings of the Rotunda Hospital.
- 7.70. The detail design of the proposed plinth, railings, piers and gates is questioned by third party observers *inter alia* by reason of the design input of the applicant's conservation architect and the proposed material finish of the railings including the use of steel rather than the traditional wrought iron.
- 7.71. The conservation report considered that a precise reinstatement of the historic railings would not align with best conservation approach. A traditional design evolved



informed by the photographic record, the extant railings to the Rotunda Hospital and Gate Theatre, the historic railings to houses on Parnell Square and the railings of Northland House (Royal Irish Academy) Dawson Street (a building attributed to Ensor).

7.72. The new railings and piers would be of a traditional ornate design and would reference *inter alia* the boundary railings of the Rotunda Hospital. The conservation report clarifies that the new railings would be fabricated by traditional methodologies and retain features such as the granite plinth wall and moulding capping and cast iron bun feet inspired by the historic details.

7.73. The reinstatement of the lanterns and pier columns shown in the photographic record is unsupported given that historically these elements were regularly moved or replaced. The conservation report claims their replacement would be subject to conjecture. It is also claimed that the replacement of lanterns would be vulnerable to vandalism.

7.74. Finally, the appeal statement clarifies that the use of mild steel as an alternative to wrought iron is supported by Mr Lindsay. The simple answer is that wrought iron is no longer made commercially. It is appropriate as a scarce material that new wrought iron is used for the repair of extant wrought iron railings. Furthermore, given that the railings cannot be reinserted on the historic line circa. 1842, the use of a modern material in an alternative location aligns with best practice.

7.75. I note the research, analysis and the findings of the conservation report and the clarifications of the appeal statement. I also note that suitably forged and painted steel railings will be similar to the wrought iron railings visually. I consider that the detail design and finish of the railings subject to installation under Grade 1 conservation architect supervision is appropriate.

*Vehicle and pedestrian access and operational matters*

7.76. The Transport Planning Division of the planning authority have concerns *inter alia* in regard to formalising a vehicular access onto Parnell Street across from the Luas Green Line. The proposal is for 4 access points in total. The Cavendish Row entrance is a lift off panel and is not for general use. The pedestrian and cyclist access on the eastern side (4.6m) with blank gate to the side. The Transport Division



raises no issue with these non-vehicular access points subject to a further set-back from the carriageway.

- 7.77. The re-configuration of the proposed railing and entrances is required. This would result in a requirement for revised plans and sections showing the set back of the plinth and railings further from the carriageway (a minimum footpath of 4m with a 0.45m verge from the carriageway) demonstrating consistency with Section 4.3.1 of the Design Manual for Urban Roads and Streets (DMURS 2019) in the context of Policy SMT11, which seeks to expand and maintain the pedestrian network in the city
- 7.78. The south-west entrance is a service entrance (4.6m) and would open during events. The Transport Division have concern with the location of the access, which would be similarly located to the former historical entrance as shown in the conservation report.
- 7.79. insufficient information has been submitted to substantiate a vehicular access having regard to the existing service yard to the rear and surrounding on-street loading bays. The principle of a formal vehicular entrance across the Luas track requires agreement and is subject to concern in regard to location on Parnell Street and congestion of the public realm. The Division would prefer to reposition the entrance further away from the junction toward the existing Rotunda Hospital exit.
- 7.80. The Transport Planning Division have other concerns that relate to the use and operation of the enclosed plaza, the principle of the enclosure of publicly accessible space in the context of Policy SM11 and other technical matters.
- 7.81. However, all of these matters, compiled as a recommended further information request, would not warrant a refusal of planning permission subject to a positive response from the applicant. A condition addressing the requirements of Transport Planning Division can be attached if a positive recommendation is recorded.
- 7.82. Finally, Transport Infrastructure Ireland (TII) makes recommendation for a condition to be attached to a permission in order to regulate development in the interests of the efficient and safe operation of the Luas. A condition addressing the requirements of TII can be attached if a positive recommendation is recorded.



### *Conclusion*

- 7.83. I conclude that the appellant has made a valid justification for the enclosure of the forecourt of the Ambassador Theatre. I consider that reinstating the railings to prevent anti-social behaviour is reasonable and desirable. The action would potentially avert anti-social behaviour and eliminate further damage to the historic fabric of the building.
- 7.84. It is considered that the historical context is represented by an evolving urban environment rather than a snapshot at any given date. The forecourt area is private property and is not part of the public estate. I consider that the evidence clearly documents a dynamic and fluid relationship between the Rotunda / Assembly Rooms and the public realm, which does not militate against the re-enclosure of the forecourt by the erection of a boundary plinth and railings.
- 7.85. I consider that the enclosure of the front curtilage of the Ambassador Theatre would not have a significant adverse visual impact on the protected structure itself (views of the principal elevations) or its curtilage given the design, height and location of the proposed enclosure.
- 7.86. It is considered given the urban location, prominent visibility and historical context and the scale of enclosure proposed that a piecemeal development as proposed is suboptimal. However, the applicant has furnished comprehensive research, analysis and conservation expertise in the formulation of the development proposal. I do not consider on balance that a refusal of planning permission is warranted on these grounds.
- 7.87. The applicant has engaged with the planning authority in advance of the submission of a planning application to consult on an integrated approach that would incorporate local authority requirements and expertise. I consider that the applicant / appellant has discharged their duty in this regard.
- 7.88. I do not consider that the objective of the O'Connell Street Architectural Conservation Area (ACA) document to create a forecourt to the Rotunda / Ambassador Cinema / Gate Theatre and the Parnell Monument precludes the redefinition of the curtilage of the Ambassador Theatre, which may in future form part of a more comprehensive public works scheme.



7.89. I conclude given my summation in the paragraphs above that the proposal would not adversely impact the special interest and character of the Conservation Area and the O'Connell Street Architectural Conservation Area (ACA).

7.90. I consider that the proposed development subject to condition would in general be consistent with the relevant policy framework of the Dublin City Development Plan 2022-2028, would be consistent with the proper planning and sustainable development of the area, and, as such, should be granted planning permission.

#### **7.91. Appropriate Assessment Screening**

The proposed development comprises re-instatement of railings and minor changes to boundary treatment in an established urban area.

Having regard to the nature and scale of the proposed development it is possible to screen out the requirement for the submission of an NIS.

### **8.0 Recommendation**

8.1. I recommend a grant of planning permission subject to condition for the reasons and considerations set out below.

### **9.0 Reasons and Considerations**

9.1. Having regard to the grounds of appeal, the third-party observations, the reason for refusal, the Z8 zoning objective and the policy framework of the Dublin City Development Plan 2022-2028, It is considered that the proposed development for control access to the forecourt of the Ambassador Theatre, a protected structure within an Architectural Conservation Area (ACA), comprising a granite stone plinth, hand forged galvanised steel railings, piers and access gates, subject to condition, would in general be consistent with policy objective CCUV40 (Safety & Security), policy objective BHA2 (Development of Protected Structures) and policy objective BHA7 (Architectural Conservation Areas) of the Dublin City Development Plan 2022-2028, would be consistent with Section 15.15.2.1-15.15.2.3 (inclusive) of the Dublin City Development Plan 2022-2028 and, as such, would be consistent with the proper planning and sustainable development of the area.



## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.</p> <p><b>Reason:</b> To ensure that the proposed works are carried out under the supervision of a Grade 1 conservation architect in order to protect the integrity of the protected structure, Ambassador Theatre, and its setting.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>The developer shall adhere to the recommendations of the Transport Planning Division of the planning authority including the following:</p> <p>(a) Prior to development the developer shall submit for the written agreement of the Transport Planning Division the re-configuration of the proposed railing and entrances, revised plans and sections showing the set back of the plinth and railings further from the carriageway (a minimum footpath of 4m with a 0.45m verge from the carriageway) demonstrating consistency with Section 4.3.1 of the Design Manual for Urban Roads and Streets (DMURS 2019) in the context of Policy SMT11, which seeks to</p>

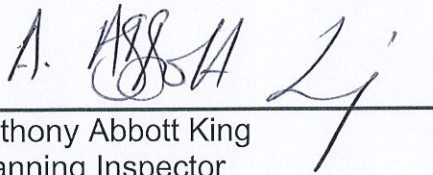


	<p>expand and maintain the pedestrian network in the city OR as agreed with the Transport Planning Division.</p> <p><b>Reason:</b> In the interest of road safety and in the interests of orderly development.</p>
5.	<p>The developer shall adhere to the recommendations of the Luas operator / TII.</p> <p><b>Reason:</b> In the interest of road safety including the operation of the Luas.</p>
6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity</p>
7.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the</p>



Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

  
Anthony Abbott King  
Planning Inspector

30 October 2024