

March 5 2024
An Bord Pleanála
Oral Hearing 314724-22

Metrolink Module 1 AZ4(i)

Submission Report from

No 33 & 34 Dartmouth Road, Dublin 6.

Léon McCarthy-Ciaran Black (33)

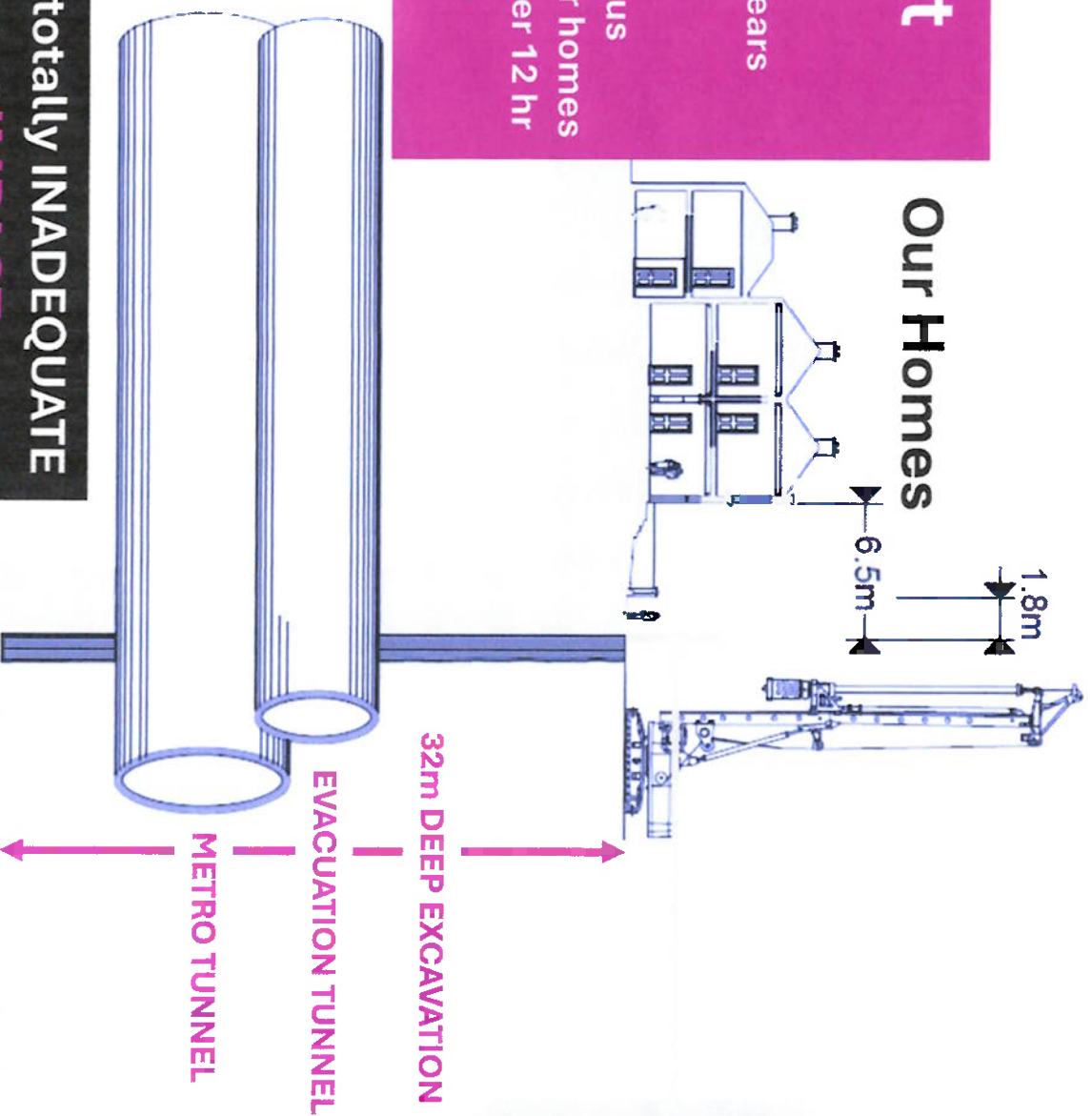
Carmel Smith-Michael Doyle (34)

1. Metrolink Construction Impact 33 & 34 Dartmouth Road
2. Construction Cumulative Impacts –Without/ With Mitigation
3. Michael Furminger BL Statement
4. Capital Value Assessment

Impact

- Construction
 - Minimum of 8.5 Years
- Operation
 - Major Rail Terminus
 - Just 27m from our homes
 - 30k passengers per 12 hr period – 365 days

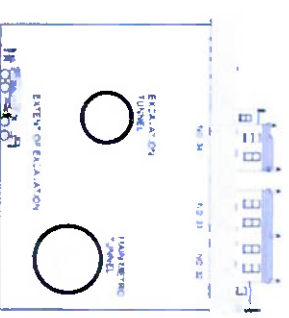
Our Homes



The Mitigation is totally **INADEQUATE** for the level of **IMPACT**

Mitigation

- Noise & Vibration
 - 4m Hoarding
 - Relocation for 4 years
 - Acoustic Box (for 24/7 works)
- Property Damage from Settlement
 - Monitor & Remediate



1

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TII's Assessment of Impact – With Proposed Mitigation

CONSTRUCTION PHASE IMPACTS WITH MITIGATION (Levels stated as for #33/#34)		TII Mitigation	8.5 years Construction									
			Year 1 2027	Year 2 2028	Year 3 2029	Year 4 2030	Year 5 2031	Year 6 2032	Year 7 2033	Year 8 2034	Year 9 2035	
			Enabling works	South Station Deep Piling				South Excavation - Ground & Underground				Fit out
1	Noise - Airborne (Appendix A13.7 Errata Mitigated Numbers)	4m Hoarding / Relocation 4 years max	Moderate to Significant dB 71/70 1.5 Years	Significant to Very Significant dB 79/80			Significant to Very Significant dB 76/77 6 Years		Significant to Very Significant dB 74/76		Moderate to Significant dB 71/70 1 Year	
2	Noise & Vibration - Ground borne (Errata Appendix 5 Ground bourne N&V Amendment)	Acoustic Box Other?	Impact NOT ASSESSED in EIAR for first 4 Years of Construction				Unassessed Mitigation Approach Val 3 Book 1 Ch 14 section 14.5.1.2 p62 and Errata Appendix 5 Ground borne Noise & Vibration Amendment Sect 6.2					
3	Ground Settlement (Protected Structures)	Monitor & Remediate	Settlement: 45mm - 35mm TII "SLIGHT" No "Phase 3" Assessment Our Experts: 'DIFFERENTIAL SETTLEMENT ON THESE HOUSES WILL BE SEVERE'									
4	Road closure	NO MITIGATION PROPOSED	Partial Closure (1.5 Years)	Full Road Closure (2.5 Years)								
5	Access & Parking	NO MITIGATION PROPOSED	Loss of Street Parking & Driveway access for residents				Construction Related High Demand for Parking Spaces					
6	24 x 7 Working hours	Acoustic Box					Tunnel Pumping	Mechanical Electrical Power (MEP)				
7	Property Value	NO MITIGATION PROPOSED	Properties UNSALEABLE									
8	Human health	Relocation 4 years???	Disturbance, Loss of Amenity & Loss of Human Right to enjoy our homes.									
9	"Temporary Relocation" is in itself another Impact	NO MITIGATION PROPOSED	????	TII 48 month relocation				????				
10	4m Hoarding placed 6.5m from Houses is itself another impact	NO MITIGATION PROPOSED	4m Hoarding is an Oppressive boxing-in our of homes									

An Bord Pleanála

ABP-314724-22

(formerly ABP-302010-18)

In the Matter of an Application for a
Railway Order
Transport (Railway Infrastructure) Act 2001

Railway (Metrolink – Estuary to Charlemont via Dublin Airport) Order

ORAL HEARING

Inspectors Niall Haverty and Barry O'Donnell

5 March 2024

NOTES FOR SUBMISSIONS

(Check against delivery)

On Behalf of

Ciaran Black and Leon McCarthy
of 33 Dartmouth Road, Ranelagh, Dublin

and

Michael and Carmel Doyle
of 34 Dartmouth Road, Ranelagh, Dublin

By Michael Furminger BL

PRELIMINARY

Introduction

Michael Furminger, Barrister

Represent Leon McCarthy and Ciaran Black who own and reside at No 33 Dartmouth Road ("Black") and Michael and Carmel Doyle who own and reside at No 34 Dartmouth Road ("Doyle").

Nos 26-34 Dartmouth Rd are Protected Structures (EIAR C26 p80).

The Black and Doyle cases are the same in every respect and I refer to the Black/Doyle case.

Structure of Submissions

Tunnelling and Excavation Related Issues and Airborne Noise and Vibration

Hearing Agenda confines this Module 1 to the above issues

Monday 26 February clarification sought from Board staff who confirmed that not only Operational airborne noise and vibration included In Module 1 but that ground borne noise and vibration is also included.

Response to Applicant's Response

The Hearing Agenda states that;

"Each submission to the Oral Hearing shall comprise solely of a response to the Applicant's written response to your submission received by An Bord Pleanála...You may also respond to any matters raised by the applicant in their submission at the start at the oral hearing." (Oral Hearing Agenda, Appendix 2, para 4)

The Applicant's written response to the Submissions of my clients received by the Board is contained within the Observation/Response Summaries Nos 043 (Black/McCarthy) and 190 (Doyle).

Repetitive to work through the itemised lists of the Summaries and not well organised. I represent two sets of clients who each made similar points, the Applicant's responses contain much repetition and the same issues arise at various points.

I structure this Submission by reference to issues and I will list the Item Nos of the Applicant's Responses in respect of which my submissions are made. In that way I will comply with the requirement only to respond to the Applicant's Response but I will do so in a way that is organised and not repetitive.

The Board is required to have regard to these submissions under s37G(2) PDA 2000 because they relate to the;

- Submissions made to the Board by my clients
- EIAR
- proper planning and sustainable development of the area surrounding the proposed Charlemont Station
- likely effects on the environment of the Proposed Development

The Black/Doyle Case

(Black Item 1 and 21 and Doyle Item 1)

Although supportive of the Metrolink Project north of the Canal, my clients oppose its extension to Charlemont Station.

They say that they will bear excessive and disproportionate cost for any 'common good' that lies in extending this project to Charlemont.

Just as there has always been a debate about locating a station on the east versus the west side of St Stephen's Green, so there has always been a question mark over the line's extension to Charlemont (see, eg, during the pre-application consultation procedure, see Inspector's Report 26 November 2021, p11/12 and p16). My clients are among those who believe Charlemont to be a step too far and, consequently, the weak link in this project. At this stage, or later, it will likely be Charlemont that brings this project down.

The Board has an express power to grant Permission for part only of the Proposed Development (s37G(3)(a) PDA 2000). It is my clients' case that Permission be granted for that part of the Proposed Development north of the Canal.

The Black and Doyle Families

Blacks have three children who live with them; 21year old boy at Trinity College and girls of 16 and 15 years at school locally who are expected to go to University. They have owned and lived at this address for 22 years. They have renovated and extended the property.

The Doyles are both aged 77 years. Their two adult children live with them and both run businesses from home. The Doyles have owned and lived in their property for 35 years.

Neither couple have renovated a property, they have each lovingly restored a family home which they have always intended to be long term.

Proximity of the Black/Doyle Homes to the Charlemont Site

(Black Item1, 21, 47, 48)

The Site is bounded by Dartmouth Square to E, Grand Parade to N, Luas Green Line to W and Dartmouth Road to S. The site is somewhat euphemistically described as "constrained" (EIAR 5.10.13, p108). My clients' homes are part of the constraint.

Main access to compound will be from Dartmouth Road, near to my clients' homes.

In order to understand my clients' case, it is necessary to understand how so very close the proposed Charlemont Station is to their homes.

The site of the station is described as 2 Grand Parade (eg EIAR C26 p79 and p126) but it could equally be addressed as 19-25 Dartmouth Road (see EIAR C26 p80 for an explanation of that numbering).

The southern end of the Station projects under Dartmouth Road (EIAR C26 p79).

The main tunnel passes just to the west of No 33 Dartmouth Road. The intervention tunnel passes immediately below No 34 Dartmouth Rd (shown, albeit not very clearly, on the Alignment Drawings).

The excavation for Charlemont Station will be immediately in front of my clients' homes, approximately 1.8m from their front gates and approx 6.5m from their front doors and windows.

The boundary between the site/my clients' homes will comprise of a 4m high solid barrier.

The front of my clients' home is approximately 25m from the main southern station entry.

It is difficult to exaggerate how close my clients' homes are to the Charlemont Station site.

Utility diversion will entail partial closure of road (one way traffic) for 12/18mnths and fully closed for between 24/30mnths for main station construction.

The proposed construction works site and compound includes the full width of Dartmouth Road from the junction with Dartmouth Place to the junction with Cambridge Terrace. Initially during utility diversion, vehicle access to Nos 32-35 will be restricted but during the full road closure there will be no vehicle access. Vehicle access will not be possible until both the roof slab and the station, in that order, are completed. Utility diversion and station construction "anticipated to take up to four years" (EIAR 5.10.13 p107)

These are perhaps the most important paragraphs, at least from my clients' point of view, in the EIAR. Four years is not simply four years. Four years in an 8.5 year development. Four years, perhaps, in the lifetime of Metrolink. But my clients see four years in their own terms. The Black girls will grow up and the Doyles will grow old. Amidst noise and vibration and facing a hoarding 4m high.

Even if this project represents a net gain for Dublin, this is too high a price for these families to pay.

The Carroll's Building/Hines Grand Parade Project (ABP 300873)

My clients have already overlooked this project since 2019. Deep excavation, piling and large concrete pours up to 16 hours involving them moving out of their homes.

The proximity of the Hines project has a bearing on the proportionality of my clients enduring what in all probability will be 10 more years of construction just metres from their homes

The Main Civil Works Outside of the Black/Doyle Homes

The Construction Phase Main Works are described at EIAR C5 p29 – 48. See also App A5.3 which sets out construction phasing at each location and the Charlemont construction at EIAR 5.10.13 p107.

At Charlemont, street level to top of rail is 24.23m (Table 5.10, p49). The excavation will necessarily be deeper.

76% of the excavation is estimated to be rock (Table 5.10, p49)

The Station excavation will involve drilling, blasting and mechanical excavation (p50)

Table EIAR C20 20.39 p49 records depth to bedrock at between 5 and 9m. The bedrock is mostly limestone. If the hole is approaching 30m deep that's between 20 and 25m of bedrock. Table 20.48 p60 shows an estimate of 85,500+ cubic metres of excavated material (p61) The excavation volumes are described as "high" (20.4.3.2.4, p64 and 20.4.3.3 p65) and "large quantities" (20.4.3.3, p65)

Excavation for station and shaft construction will include "drill and blast methods for rock extraction". The equipment includes the use of rock drills, excavators, loaders and drum cutters. Once the rock has been extracted through blasting there will be a requirement to further break the rock into smaller grades prior to removal from the excavation pit..." (EIAR C13, top p63). This is not at some industrial site or remote resource project, this is in a residential neighbourhood.

The Duration of Blasting, Excavation and Tunnelling

(Black Item 33)

In considering development proposals, it is usual not to attach too much significance to construction impacts as relatively shortlived.

In theory that is possible in this case – construction is scheduled over 8.5 years (EIAR C5, Diagram 5.3 p8) and Metrolink will last (hopefully) much longer than that. In practice, however, such an analysis is not appropriate in this case.

Firstly, the time estimate for the project has already increased from the 7yrs estimated as recently as November 2021 (Inspector's Report, 26 November 2021, p8). It is not unreasonable for everyone to assume that the Charlemont Station project will take 10 years.

Blasting, Excavation and Tunnelling is scheduled to last for between 2 and 2.5 years.

Remember my clients' personal and family circumstances.

Duration of Dartmouth Road Closure

(Black Item 45)

The total road closure is scheduled for 30 months.

No plan for emergency vehicle access and it appears to my clients no possibility of emergency vehicle access.

The Length of the Working Day

(Black Item 34)

Working hours at EIAR C5 5.2.4, p8

Types of work requiring additional working hours at 5.2.4.2 p9 (eg tunnelling and associated surface activities, rock excavation at some stations, large concrete pours, dewatering pumps)

Table 5.5 p12 shows that 7 day (day-shift, 7am/7pm) working will apply at Charlemont for great majority of project.

INTERACTION OF IMPACTS AND HUMAN HEALTH

Interaction

EIAR C29 states that Cs 13 and 14 describe how ground and air noise will be mitigated "and therefore how potential interaction would also be mitigated" (p5). That is inaccurate. Alleging how each will be mitigated, does nothing to assess either the likelihood of interaction or the seriousness of its consequences. This is a serious omission in the EIAR, esp in respect of people living close to construction activities such as my clients and, and perhaps others along route. This impact is acknowledged but completely un-assessed.

Impact on Human Health

(Black Item 38)

The Applicant's response does not properly reflect the content of the EIAR C10.

"There are potential psychological impacts from the Construction Phase. *These may have started already* as individuals, once possible details of a scheme such as this are made public, can become anxious and worried about potential effects on their property or themselves.

Human psychological impacts are very complex and not easily predicted...

Potential psychological effects are not equally distributed. *Some people, due to the location of their residence or work may have very significant effects...*" (EIAR C5 10.5.1.4, p38, emphasis added)

My clients have been dealing with this project and its predecessors for 6 years.

Reference to "a sift" (p31) having been carried out of the health impacts of the Proposed Development identified in other chapters. These are shown in Table 10.13 which at p32 doesn't record any impact for Dartmouth Road but does record for Dartmouth Square (with ref to C13) (sleep disturbance from construction). Similar issue on Table 10.14 at p46

In its "discussion of interactions" (29.3, p4) the EIAR acknowledges that "health impacts associated with...construction impacts are related to emissions to air, noise and vibration and other emissions as well as psychological impacts, such as stress and anxiety." (29.3.1.1, p4)

At 29.3.2 the EIAR lists "Population and Land Use, Human Health, Traffic and Transport, Air Quality, Climate, Airborne Noise and Vibration, and Ground-borne and (*sic*) Noise and Vibration" and states that "there is significant interaction between these topics during [the Construction Phase]" (p4) (see opening quote Under Interaction from C29 p5).

In particular the EIAR acknowledges that ground and air borne effects may be experienced simultaneously and that "the human response to the potential interaction of both airborne and groundborne noise and vibration types is dependent on the sensitivity of those exposed." (29.3.5.1, p5) This is an acknowledgment of the importance of a subjective assessment of environmental impact, esp on human health. This has not been undertaken. The EIAR is inadequate in this regard.

I repeat, the Applicant's response at Item 48 does not properly reflect the content of the EIAR C10.

NOISE MITIGATION POLICY

TII Airborne Noise and Ground-borne Noise Mitigation Policy (Appendix A14.6) is introduced at C14 p51 of the EIAR. It offers temporary rehousing;

"where construction noise levels are such that noise insulation will not provide sufficient attenuation to prevent disturbance or interference with activities or sleep" (p51)

In other words, temporary rehousing may be offered where the Applicant accepts that *even with noise insulation* noise levels will be so great that sleep and ordinary activities will be disturbed.

The Policy states that generally re-housing will be for a maximum of 4 weeks (p6).

The Blacks met Aidan Foley and Michael Horan on 31 January when they were offered temporary re-housing for *four years*. Mr Foley said that for the Blacks the "impact is pretty intense and the proximity of cumulative works makes the situation for you particularly poor".

I refer to this Policy and offer in Module 1 only as evidence of the degree of impact which the Applicant acknowledges. Despite this acknowledgment, the Applicant chooses to proceed without having included 33 and 34 Dartmouth Road on its list of proposed CPOs.

AIRBORNE NOISE – OPERATION

The EIAR's description of potential airborne noise operational impacts is inadequate.

There is reference to ventilation systems for the station, shafts and tunnels, public address

systems and increases in road traffic noise. There is no reference to 'drop off' and people noise generally (see p24 and p117).

There is no account taken of the stop/start of engines, the slamming of car doors and shouted goodbyes of 'drop off'. What has been a quiet neighbourhood will become a station concourse. So often in these documents there is a focus on detailed science and yet the basic, ordinary human reality of a rushed arrival and a loud goodbye is ignored – but that will be the reality for my clients.

Ventilation and PA Systems

At Charlemont, the primary operational noise sources will be "station" (presumably PA and people) and ventilation systems (p129).

"The key potential noise source relates to breakout noise from ventilation shafts and grilles at surface level...During day-to-day operations...this...would pose potential significant noise impacts particularly during night-time periods without specific attenuation." (p118).

Final design of ventilation and PA systems not yet undertaken (p30, p119 and p129) and Table 13.10 refers to limiting the impact of ventilation plant by reference to background noise levels yet to be obtained (p24, p118 and p129). Baseline noise levels to date are defective (see above). Once construction commences, it will not be possible to obtain background noise levels indicative of the neighbourhood before the Hines development and before Metrolink.

"For an appropriate...assessment it is necessary to compare the measured external background sound level (...in the absence of plant items) to the rating level...of the various plant items, when operational..." (p42/3) This assessment is impossible to perform for two reasons. Firstly, it is now impossible to obtain a fair background sound level. Secondly the Applicant has not yet selected equipment so sound levels are unknown. There is no commitment to an absolute limit.

"Specific noise level from ventilation systems will be calculated as part of the further design development..." (p118) "The operational noise from each shaft and surface grill will be calculated...to not exceed the relevant design criteria for each location." (p129)

It's the way these things go. The Baseline is inflated, the 'background' for the ventilation plant is further inflated and so the officially tolerated noise level is ratcheted up and the character of old neighbourhoods – the ones planners are supposed to like, the ones from which you can walk to town – these old neighbourhoods are lost forever.

Noise from Pedestrians

There's no assessment of noise in relation to increased pedestrian activity either directly associated with station use or less directly attracted by what (hopefully) will be attractive plaza area. There's no adequate assessment of 'drop off' traffic.

Doc submitted on Day 5 26 Feb relating to passengers at Charlemont refers to 30,000 in a 12 hour period in 2035 2500/hr). Envisaged that service will operate 0530 to 0030 every day (C6, p10), that's 19hrs day. That's 47,500/24hr period. Of the two station entries, southern one is the largest, it is the one with a direct escalator link from the surface to the platform and it is the one with much better car drop-off potential. This S entrance opens

turned from right-angle to road to point directly to door of No33 Dartmouth Road and is approx 25m away from front doors. (Plan at end of Structures Drawings Book 2 of 3).

Clearly it is impossible to estimate an apportionment between the north and south entries but the southern entry is the larger with the better drop-off potential. There will be 10s of thousands of people within 25m of my clients' homes within each 24hour period.

In addition to noise from pedestrians arriving and leaving, "any breakout of noise from the station areas is likely to be via the access stairwells and escalators to ground surface." (C13 p119). This noise is not measured.

LEGAL DEFECTS

Adequacy of EIAR

The adequacy of the EIAR is a matter for the Board to determine. *McCallig v ABP* [2013] IEHC 60 para 119 and *Dunnes Stores v ABP* (No1) [2016] IEHC 226 para 8.5 and *Power v ABP* [2024] IEHC 108, para 132.

This EIAR is inadequate because of;

- defects in its assessment of airborne noise in the vicinity of the proposed Charlemont station
- the extent to which it has been amended since Day 1 of this Hearing. The inadequacy is either caused by or illustrated by the extent to which it has been amended

"Significant Additional Information"

The Applicant has submitted an extensive amount of further information since the beginning of the hearing.

Where an applicant submits a revised EIAR or otherwise submits further information, which, in the opinion of the Board, contains "significant additional information" on the effect of the proposed development to that already submitted, the Board shall: (a) make the information available for inspection; (b) give notice that the information...[is] so available; and (c) invite further submissions or observations to be made to it within such period as it may specify. (s37F(2) PDA 2000)

(See Browne, *Simons on Planning Law*, 3rd edition, para 7-106)

The test to be employed by the Board is whether, in the circumstances of the application, *some* members of the public *might* reasonably wish to object on the basis of the new information (*White v Dublin City Council* [2004] 2ILRM 509, facts p514/8 and p523/4).

Black/Doyle adopt and repeat the evidence of Messrs Quigley, Kavanagh and Goodwin of late yesterday afternoon without repetition but reserve their right to question representatives of the Applicant regarding these matters.

SETTLEMENT AND PROPERTY DAMAGE

Doyle 2, 3, 4, 5, 8, 11, 12, 14 and Black/McCarthy 27 and 28

GROUND BORNE NOISE AND VIBRATION – CONSTRUCTION

Black Items 25, 31 and 32 and Doyle 17

AIRBORNE NOISE - CONSTRUCTION

(Black Items 25, 31 and 32 and Doyle 17)

MICHAEL FURMINGER BL

Appendix : Oral Hearing Submission Document for 33 & 34 Dartmouth Road

Capital Value impact assessment report – ABP Submission Summary

**Impact of the proposed MetroLink project on the properties at 33 & 34 Dartmouth Road,
Ranelagh, Dublin 6**

Background

Our professional services have been retained by the owner occupiers of both 33 & 34 Dartmouth Road, Ranelagh, Dublin 6 to offer our expert opinion on the likelihood of there being a catastrophic impact to the marketability, appeal and ultimately the capital value of their homes should the proposed MetroLink terminus at “Charlemont” receive planning approval, be constructed as proposed and ultimately become fully operational.

Pre-Planning Property valuation impact (Oral Hearing Feb 2024 to ABP Decision ~ Jan 2025)

The commencement of the oral hearing in February 2024 has brought a significant amount of media coverage to the matter of the MetroLink and more specifically the suggested benefits and potential negative impacts on suburbs and notable places of public importance along its route. For the property market, the inability to visualize or interpret the reality of the Metrolink plans on Dartmouth Road will be detrimental to the ability to understand and comprehend the impact or not such significant construction works might have. In any location, fewer buyers focusing on an area reduces the potential for competitive bidding that would facilitate a specific property maximising its ultimate selling price. While a buyer might take a chance at pre-planning stage that the project will be refused planning and opt to continue to pursue their goal of acquiring a property in a specific location, the seller is completely at the mercy of the planning process and if granted, the negative focus on the location will most definitely impact the appeal of their dwelling and commence a sustained and lengthy period of market value erosion.

Post-Planning Property valuation impact (~Jan 2025 to Jan 2027)

Once planning is awarded and the project goes to tender, the acquisition appeal of 33 & 34 Dartmouth Road will be eliminated with immediate effect. By that stage, the full magnitude of the works required, and timeline will be in the public forum therefore the areas affected will enter a phase of market exclusion, that is, there will be no appeal in the general marketplace for a property in such a compromised location. The area will be “locked out” of buyers property search criteria.

35 KILDAKE STREET, DUBLIN 2.
TEL: 01 676 8306

CONSULTANTS

BARRY SMYTH, FRICS, FSCSI, MCIAMB

Email: barrysmyth@dvwsl.ie

COLIN SMYTH, MRICS, MSCSI, RICS RV

Email: colinsmyth@dvwsl.ie

COMPANY REG. NO.: 262350

VAT NO.: IE638255CP

PSRA Licence No. 002761

Construction phase Property value impact (~Jan 2027 to ~Sept 2035. 102 months Construction)

During construction the impact on capital values will be catastrophic, with market values declining to a near nominal value, one which no owner would be willing to accept under any market conditions. During these periods of construction, the properties at 33 & 34 Dartmouth Road will be unsaleable as they will neither be physically accessible or habitable such is the scale of the proposed works and the level of disruption that will likely be incurred. Purchasers will also experience difficulties in obtaining secured finance for their purpose as the finance provider will not entertain the associated risks of such a transaction.

Operational phase Property value impact (Ongoing from 2036)

It is our professional opinion that the capital values of properties in the immediate environs of this Terminus station entrance and plaza and more specifically No.33 & 34 Dartmouth Road, given their positioning on the road 19m opposite the proposed terminus, will have endured **significant negative decline with no hope of them ever returning to expected market levels** had there been no public transport terminus.

Established in 1982 deVere White & Smyth Limited (T/A dVW Smyth) is a general practice property consultancy offering extensive expertise in both the residential and commercial property markets.

Colin Smyth is a Chartered Surveyor and a member of the Society of Chartered Surveyors Ireland (SCSI) and the Royal Institute of Chartered Surveyors (RICS). As Chairperson of the Residential Professional Group within SCSI, Colin also sits on the National Governing Council of SCSI.



Colin Smyth MSCSI, MRICS
RICS Registered Valuer
Chartered Surveyor

4th March 2024

