

**IN THE MATTER OF AN APPLICATION TO AN BORD PLEANALA FOR  
APPROVAL OF THE RAILWAY (METROLINK – ESTUARY TO CHARLEMONT  
VIA DUBLIN AIRPORT) ORDER**

ABP-314724-22

Conor Power and Loraine Power  
5 Dartmouth Square West.

We thank the Inspectors for the opportunity to make observations on this application for a Railway Order.

We have previously made written submissions on the application, and we will not needlessly repeat those.

We have heard the observations and submissions made by the Charlemont and District group and we adopt and endorse those.

Our home is located in a residential area. It is not a transportation hub, notwithstanding that it is well served by public transport.

In fact, if this application is granted we will be spoiled for choice, while other neighborhoods are deprived of any rail link.

We are rightly concerned that by reason of Charlemont Station being a Terminus station, which it manifestly is by reason that it is the end of the line, that there will be significant traffic disruption to our residential area.

It appears this has not been properly studied by TII, who are in fact adopting a dogma that because there is no set down allowed, set down won't occur. This simply doesn't make sense, in particular whereby their own figures indicate that 73% of users will not transfer to the LUAS. Where will they go? If even a relatively small fraction of the thousands of metro users per hour use private car or taxi transportation for drop off or collection, the residential area would become choked with traffic.

TII mentioned on several occasions that people would cycling to the metro stop. Myself and Loraine cycle and our young children do also, to school etc. We don't cycle to the LUAS - in fairness we don't need to. But other people don't seem to have that need either because there are 4 Edinburgh bike stands opposite the LUAS Charlemont station entrance which are typically empty. TII might know that if they had conducted a proper traffic study.

Also, we and other locals are already within cycling distance of many of the amenities we need. Of course, there are also the buses that TII has referred to and there is the LUAS. So locals are well served for nearby public transport – the “high public transport accessibility” TII have referred to in their Response Document.

I cannot really imagine local cyclists cycling to the metro, as was suggested several times yesterday. If they are going to the airport they would have luggage bags with them. Insofar as people would cycle to the metro as was mentioned several times yesterday, they would do so not because its local, but because its a Terminus. Presumably drivers will act the same for their passengers, be it private cars or taxis.

I say this because TII seem to believe that the proposed Charlemont station terminus is not a Terminus, but that its for local use. Of course it will also be for local use, even if its not needed. But if it is mainly for local use why is there so much focus on the need for integration with public transport, when the vast bulk of passenger use is not for integration with the LUAS? Why not locate that interchange where the numbers seeking to interchange are higher?

The proposed stop is portrayed to, in effect, be a part of a transportation hub because the proposed stop is now a Terminus. Either the station has a rationale or it does not - TII ought not try to ride both horses. It is patently more than a LUAS tie-in and local stop; its a Terminus and therefore an attraction for commuters from outside the locality, especially those going to the airport. Presumably that is why it is being built at a huge public cost in an area TII say is already well served with public transport.

That cost is more than just financial, although we have seen that TII is willing to throw away millions of euros on a half-built station box that may not be used.

There is a social cost also. Those of us living directly adjacent to the decade-long building site will become painfully aware of that. But the social cost to a residential neighborhood of making it a transportation hub must also be properly considered and properly managed, and that does not seem to be part of the TII application to date.

Yesterday we heard that the enabling station box works cost €12.5m. I had asked the costs in my submission to ABP in January 2023. TII chose not to answer that in its written reply. Neither did it answer other questions posed: Have the monies been paid over? Who owns the subterranean construction? Is the €12.5m the construction cost only or does it cover ownership?

We have already heard the noise and disruption of the November 2021 and January 2022 construction of the "advanced station box works." These were real works that caused real noise, they cost real money, there is a real structure under the Hines building.

The "advanced station box works" did not happen by accident – they were deliberately commissioned, designed, costed etc - none of that background has been shared.

It is inconceivable that TII did not know that those self-described "advanced station box works" which will form the "central section of the Charlemont station box" [EIAR] constituted "railway works" within the meaning of the Transport (Railway Infrastructure) Act 2001 (as amended.)

It is baffling that that TII did not even consider the possibility that they were such work and seek legal advice on that issue. They have not shared any such legal advice.

This suggests a contempt for the planning process and public consultation and the spending of public money.

TII knew or ought to have known that the Hines building planning process could not create any or any valid permission for the works carried out. It is not acceptable for a public authority to act in this way.

In particular, by its action TII has pre-empted this process. Work that ought only be carried out following the grant of a valid Railway Order has already been constructed. Something that this process should be able consider at large, has instead been finished and pre-determined.

TII's reply to its unlawful conduct is: *tough. You didn't catch us at the time, and now its too late.* That's what their legal argument of time limit and collateral attack is designed to say.

For a public agency, that is not a tenable position. It is in effect to assert: we can benefit from our unlawful action and to shrug-off any accountability in this process.

TII have expressly stated that an option is to demolish the Hines building. This begs questions: why should that need to be an option in the first place. Is it really an option? How would that work, and so forth? This seems more like a fig-leaf than an option.

TII say we ought to have judicially reviewed that Hines decision. Why? We are ordinary citizens. Why should a public agency benefit from its wrongful action? Why force us into Court? This is obviously the appropriate process in which to raise the issue.

For the avoidance of doubt, neither Loraine nor myself were applicants in the 2019 judicial review. We moved into the area in 2019.

But how is the Hines permission or any judicial review of it relevant to *Metrolink* as a project? Are people who never even heard of the Hines building prevented from involvement in this process because they ought not have known of the underground works? Should they all have constantly monitored the Hines site? Of course not. That is simply not a tenable proposition for a public agency to adopt. This process is and must be open to all and be capable of considering all issues. The fact that some did not know to object to the self-described "advanced station box works" cannot render those works immune from proper consideration in this process, which is the only process under which those same works could be sanctioned *following* the grant of a Railway Order.

The self-described "advanced station box works" – the ceiling of the station – was unlawfully built. There is and can be no retention permission. TII need to address this, not wish it away.

As regards the EIAR, TII say that those enabling works have been included in the assessment for the purposes of the EIA to be completed by the Board. (Legal Submission §118). But the "advanced station box works" have been completed, and there was no EIAR *before* that.

They have not answered any of the questions posed in our submissions about the relevant issues.

As I understand matters, Schedule 5, Part 2 of the Planning and Development Regs. 2001 list the works which trigger what are known as "sub-threshold" EIA obligations, being the obligation to undertake an EIA screening to determine if a full EIA is required.

Class 10(h) is:-

*All tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport.*

This class manifestly applies. Schedule 7 sets out the factors to be considered.

The OPR Practice Note PN02 on Environmental Impact Assessment Screening (June 2021) details the application of the precautionary principle and guards against project splitting. If the project 'sub-threshold' a screening is mandatory.

Had this been complied with it was possible that the need for a full EIA might have been screened out, but this does obviate the obligation to conduct the screening, which did not happen.

No Appropriate Assessment (AA) undertaken.

TII also criticised the fact that no one has raised the remedial obligation in the context of two subsequent Hines applications concerning their site and that those were the applications in which any alleged remedial obligation should have been raised.

It is hard to see why ordinary citizens have to police the TII, and are then criticized for not doing so.

In any case, this Railway Order process is the most appropriate application in which to raise and undertake the remedial obligation.

In *Reid v ABP (No.7)* [2024] IEHC 27, the Applicant claimed an Appropriate Assessment (AA) undertaken as part of a previous planning application at the Intel site was defective on the way it assessed ammonia emissions. Intel submitted a further application for modifications to roof development and the Applicant said this second application triggered a remedial obligation to reassess ammonia emissions. At the same time, the EPA was considering an emissions license and in so doing, it addressed and imposed conditions re ammonia emissions.

Humphreys J held that if a remedial obligation did arise, it arose in the context of the EPA process as it was directly considering the emissions issue and was in a position to regulate same. Similarly here, this is the appropriate process in which to remedy the EIA and AA deficiencies in the previous application, given that the piling works and roof slab undertaken for TII are integral to the proposed railway order works at the Charlemont location.

See §62(v) of Reid:

"... If there was a remedial obligation on the part of emanations of the State, the much more appropriate way to implement that was in relation to the emissions licence process before the EPA which considered the impacts of emissions on European sites. The EPA considered that issue and granted the licence, a grant which was unchallenged. The prior decision by the board to allow a modification to the roof of the building, which did not in itself authorise any emissions capable of affecting a European site, was simply not an appropriate vehicle to address any alleged shortcomings in prior AA regarding emissions, and certainly was not the most appropriate vehicle to do so. Irrespective of the theoretical position, as a matter of actual fact the issue has been superseded by the subsequent analysis by the EPA. There would be no purpose to be served by quashing the roof decision where the emissions position has been fully analysed subsequently, so one could taxonomically also view that problem as one of the court's discretion, which would inevitably have to be exercised against the grant of pointless relief."

Similar considerations apply herein.

This Railway Order process is the "appropriate vehicle to address any alleged shortcomings" in the unlawful construction undertaken to date. TII have failed to address how they will do so.

Thank you.  
March 26<sup>th</sup> 2024

Dear Inspector,

Thank you for allowing me the opportunity to address you again, having done so in Module 1. Whereas the latter concentrated on the effects that the proposed Metrolink Terminus would have on our home, I wish today to address the impact on our community.

Firstly, however, it is worth highlighting that despite a direct commitment from TII about engaging with affected residents in response to my comments in Module 1, we have had no contact from TII to address our concerns about the 8.5 year construction duration and what that may mean for our family, including whether we will have to relocate for a period. We therefore have no confidence in TII's capacity to act in good faith.

TII throughout this Oral Hearing has behaved in a high-handed, dismissive manner and yesterday was no different. At one point, our legal representative was told one of his points "barely merits a response". I wish to remind ABP that our community does not have staff and/or a panel of experts (including two Senior Counsel and three Junior Counsel, available to us in putting forward our arguments). Our community deserves to be treated with respect in the answers given by TII. Our team engaged very seriously and diligently with the issues that are of utmost concern to our community. They went above and beyond, in terms of the time and level of deliberation they have invested.

While our confidence in TII has been eroded, the question now arises as to whether we can have confidence in ABP to see through the obvious holes in TII's position, including as regards their legal arguments. We hope ABP will not be found wanting on objectivity and its own responsibilities. Ordinary people in this country rely on ABP processes to deliver fair planning outcomes - it is all we have in the face of powerful developers, state agencies and other institutions.

I cannot speak for other community or residents groups that have addressed this Oral Hearing but I trust their concerns will be taken seriously by ABP and not dismissed out of hand as TII have generally sought to do. While the Metrolink project promises to bring benefits to many communities there are some who face serious, indeed life-altering disturbance, because of the alignment chosen by TII. It is only right and proper that ABP should seek to minimise such upheaval to the greatest extent possible.

I have lived with my husband and our four young children on Dartmouth Square for almost five years. We were attracted to the location in large part because of the park. It is a haven in a busy urban area. The sound of bird songs fills the air throughout the day: great tits, robins, sparrows, blackbirds, magpies and more. Squirrels scamper around gaily. After a day of rain, an abundance of snails emerge. There are lots of daffodils in bloom currently and snow drops too. We see the changes of every season; like the autumn leaves, with their palate of yellows, browns and reds or the bare winter branches. People are drawn here to connect with nature and with themselves and to escape the harshness of being surrounded solely by concrete and buildings for so much of their daily activities.

The prospect of a Terminus at Charlemont with thousands of passengers in and around the area on a daily basis gives rise to genuine concerns about how this sense of rest, relaxation and rejuvenation in the park can be maintained. Some will say this is a very privileged perspective and that most people do not have the luxury of such an amenity. TII may scoff but I am here reluctantly because there is no other alternative available to me – TII has ignored our community's longstanding warning that Charlemont is unsuitable as a Terminus. In truth I think most people identify with the positive impact of using a park on physical and mental wellbeing. It is important that Dartmouth Square is maintained as a place of calm, retreat and recreation for people to enjoy.

I use the park almost daily. I see people walking with their friends or getting some exercise. I see children, including my own, playing football, tag, hide-and-seek and other games. Young couples lock hands and older people take things at their own pace. The park is an integral part of our community. It is a focal point for our community and something to be treasured. Communities are the bedrock of our society and need to be nurtured.

Modern life is tearing at the social fabric. Society is becoming more fragmented, with the need for basic human contact and connection often losing out to the omnipresence of social media. People are more and more stressed from work and other pressures. We make no apologies in fighting to protect and strengthen the bonds of our community. A Terminus at Charlemont raises the prospect of a more anonymous existence, with significant numbers of random people passing in and out on a constant basis. There is a real danger that the sense of belonging, pride and place that residents currently feel would be diminished in these circumstances.

The character of our neighbourhood is fundamentally a residential area, where people live because they want to raise their kids or get on with working hard or grow old gracefully, not because they want to be at a centre of transportation or become just another prospective soulless commercial zone. In the Rail Order Application and subsequent barrage of documents that TII has produced during this Oral Hearing, TII shows no understanding of what community is about, why it is fragile and why it should be supported - rather than torn apart.

I want to raise my children in a strong and close community. This should not be a big ask. We should not be made feel guilty or 'entitled' or out-of-touch for wanting to live in relative stability, in an otherwise chaotic world. The choice of Charlemont as a Terminus is unnecessary and unwise, on several grounds, as has been demonstrated by the experts representing our community. There was a comment at



yesterday's session that TII did not consider St Stephen's Green West as appropriate because of the effect on commercial buildings in the area, among other reasons. Yet TII sees fit to leave a row of houses at Dartmouth Square West and others on Dartmouth Road open to the possibility of being structurally compromised, without metaphorically batting an eyelid. This is an insult to us as a family, working hard and raising our kids in the home we love.

I wish to make one broader point about the needs of Dublin from a transport and sustainability perspective. The riots in November represented the culmination of a marked decline in the safety and vibrancy of our city centre. A busy Terminus in the city centre, whether at O'Connell Street, Tara Street, St. Stephen's Green or elsewhere would help to rejuvenate the heart of our capital. It is beyond me why TII think it is a good idea to instead bring further footfall and activity to a location outside the city centre radius, namely Charlemont, thereby denuding the North Side of the city of the investment and focus it needs. Surely, if there is no Terminus at Charlemont, more people would be redirected to the actual city centre, with much-needed economic benefits.

TII yesterday said Charlemont won't be a Terminus. It is an incredible situation that we cannot even rely on the meaning of a widely-used word denoting the end of a line. In any case, even under TII's reformulation of the concept, Charlemont does not need a Terminus. We are already served by the Luas. Other locations for a Terminus make more sense and other areas of the city, for example, Dublin South West, should be properly assessed for future alignments.

Thank you for your attention.

Lorraine Mulligan