

Lisa/Ltg



## Planning Appeal Online Observation

Online Reference  
NPA-OBS-002772

### Online Observation Details

Contact Name  
Brian McGrath

Lodgement Date  
27/11/2023 16:12:09

Case Number / Description  
318316

### Payment Details

Payment Method  
Online Payment

Cardholder Name  
Brian McGrath

Payment Amount  
€50.00

on time  
1+1  
€50

### Processing Section

S.131 Consideration Required

☒ Yes — See attached 131 Form

☐ N/A — Invalid

LDG-068295-23

Signed

EO

Date

28-11-23

### Fee Refund Requisition

Please Arrange a Refund of Fee of

€

Lodgement No

LDG—

Reason for Refund

Documents Returned to Observer

☐ Yes ☐ No

Request Emailed to Senior Executive Officer for Approval

☐ Yes ☐ No

Signed

EO

Date

### Finance Section

Payment Reference

ch\_3OH7PpB1CW0EN5FC0YAuYiE2

Checked Against Fee Income Online

EO/AA (Accounts Section)

Amount

€

Refund Date

Authorised By (1)

SEO (Finance)

Authorised By (2)

Chief Officer/Director of Corporate Affairs/SAO/Board Member

Date

Date

**Observation on Appeal of PL29N.318316 – DCC Case Reference - 5126/22, by Brian McGrath, 16 Glenmore Road, Dublin 7. Monday, 27<sup>th</sup> November 2023**

Re. <https://planning.agileapplications.ie/dublincity/application-details/>  
<https://www.pleanala.ie/en-ie/case/318316>

***Site Description:***

*‘Dublin Central GP Limited Intends to apply for Permission for a period of 11 years at a site, ‘Dublin Central – Site 2’ (c. 1.33 Ha), at No. 43 (a Protected Structure), No. 44 (a Protected Structure), Nos. 45 – 49, Nos. 50 – 51 O’Connell Street Upper (a vacant site), Nos. 52 – 54 (a Protected Structure), Nos. 55 – 56, No. 57 (a Protected Structure), No. 58 (a Protected Structure) and No. 60A O’Connell Street Upper and the rear of Nos. 59 – 60 O’Connell Street Upper, Dublin 1.*

*Also, the site includes No. 13 Moore Lane, No. 14 Moore Lane (otherwise known as Nos. 1 – 3 O’Rahilly Parade and Nos. 14 – 15 Moore Lane or Nos. 1 – 8 O’Rahilly Parade and Nos. 14 – 15 Moore Lane) and the public realm associated with O’Rahilly Parade, Moore Lane, Henry Place and a portion of O’Connell Street Upper, Dublin 1.*

*The site is otherwise bound by Henry Place and Nos. 59 – 60 O’Connell Street Upper to the south, the east side of Moore Lane to the west and west side of O’Connell Street Upper to the east and No. 42 O’Connell Street Upper to the north.’*

***Dublin Central Site 2 and Metrolink:***

The application site servicing plan states that to facilitate the Metrolink plan for (2035) – ‘A structural box (120m length, 26m width, 34.5m depth) beneath the ground floor level that has been designed to accommodate the independent construction and operation of the planned O’Connell Street *MetroLink* Station by Transport Infrastructure Ireland, including provision of the structural envelope and co-ordinated voids to accommodate station entrances, ventilation and fire escape shafts through this part of the Dublin Central proposed development.

These ensure that the Dublin Central proposed development is structurally independent of, and not prejudicial to, the *MetroLink* project. The *MetroLink* project will be the subject of a separate application for approval to be made by Transport Infrastructure Ireland. This part of the Dublin Central proposed development is referred to as the *MetroLink* Enabling Works.’

The proposed rail station is to be constructed under ‘site 2’. The timeline is 15 years as the application makes it clear that the development is dependent on Metrolink proceeding immediately. If the metro does not proceed, *neither can the development in its current form.*

Since the timeline in relation to *Metrolink* is unknown, and that this is acknowledged by state agencies, why is a fresh application for site 2 being pushed through at this time? And since the real timeline is 15 years, why is this not stated on the [application page](#)? And why have the developers placed the metro at Upper O’Connell St. Terrace (Site 2), where its removal is necessary for the metro to proceed? Is this simply not to facilitate the development?

### ***Questions about Site 2 and the Upper O'Connell St. Terrace:***

This has a special relevance to heritage protection, if Hammerson plans to proceed immediately with demolition of the protected structures listed in application 5126/22 and the three previous applications as part of Dublin Central? Also, is this the case with the O'Connell Street and Moore Street buildings listed as part of this and the Hammerson 2022 applications? The EIA Volume 2 report states that the windows are to be retained (where applicable) and that all parts of the protected structures are to be photographed.

Demolition of a protected structure is illegal, there is also the practical reason arises as to where all this material is to be located. The development is proceeding as the application makes clear on the basis that Metrolink will proceed in tandem with the development. That timeline is dubious, and Dublin Central / Metrolink is to proceed on the word of the Government, will this be mean that demolition of the protected structures on O'Connell and Moore Streets will proceed before the larger development is to proceed?

Is this the intention of the developers? The question must be asked, because the application and previous applications associated with the proposal go to some trouble to knit the protected structures and the history of O'Connell and Moore streets into the development process. However, a later application (given the 15year timeline), could simply alter the plan again, with the historic materials lost or disposed of (given the length of time involved), this is a distinct possibility.

In fact, Metrolink was first promised in 2005 in the [Transport 21 Plan](#). When revised plans were announced in 2018, it was [scheduled to be operational by 2027](#). However, the plan could be delayed well beyond the designated time.

### ***Metro Plans:***

The Chief Executive of Transport Infrastructure Ireland (TII), Peter Walsh, told the Dáil's Public Accounts Committee (PAC) last February that he hoped Government approval will be granted and that a submission would be made to An Bord Pleanála in the second half of the year. He said the planning process is out of the TII control and whether there is a judicial review challenge "will add a period of time that we [cannot determine](#)".

### ***Issues with the Dublin Central Metro Proposal:***

As a result, there is a proposed Timeline of Completion in the [5126/22](#) application of 2034. (Baseline Programme 4.0, p.19.). There is to be a fresh application to be submitted in March 2023 with construction proposed to commence in August 2023. With Dublin Central clearly tied in to Metrolink, (for purposes of the [present application](#)) why is a planning application being tied so clearly together with a rail proposal whose timeline is so vague and unclear and why is it being proposed that a massive building development be allowed to proceed in the city centre for the next fifteen years?

This is an effective grant of land and planning permission to a developer or future developer (the original developer of Dublin Central was Chartered Land, now the main developer is Hammerson) in near- perpetuity. It is left open to the developer to submit fresh applications once the protected structures are torn down and recorded. They will be recorded for purposes of the historical record and cast aside. Both the scale elevations and plans and photomontages make clear that the old terrace is inserted and merged into a huge office complex (the 2010

Dublin Central was speculative retail, the present proposal is for speculative office space), with the old facades disappearing under this bulk of office space.

### ***Dublin Central and O'Connell Street:***

On June 2021, the *Moore St. – Parnell St. – O'Connell Street* office and retail development ('*Dublin Central*') was re-submitted to Dublin city council, with planning permission granted on the 12th January 2022. This shrivelled version of the huge 2010 complex whose atrium would have projected fifty metres above Henry Street with a massive shopping complex. This is replaced by a massive office complex and bars, with a small number of apartments, with a demolished and rebuilt Moore Street, exiting onto the side entrance of another shopping Centre the ILAC Centre., also owned by Hammerson. This grants a large tract of retail and office space in Dublin city centre to be owned by a single developer.

### ***Protected Structures on O'Connell St:***

There are several buildings in O'Connell St. slated for demolition (with façade retention) as part of the 'Dublin Central' scheme which is centred around the Carlton Cinema site. It should be noted that most of these buildings are in mostly good to excellent condition, apart from the Carlton, (which is not in a ruinous condition), repairs could easily be made to the building. Most of these outstanding pieces of Dublin's unique architectural history are slated for demolition, with facades retention as part of this retail and office development. Proposed is complete destruction of these buildings, dating from the 18th century, the war of independence, and the art deco architecture of the 1920's to 1930's.

The Upper O'Connell Street terrace should be treated as a homogeneous group, (as should all protected buildings) in the spirit of the ***Convention for the Protection of the Architectural Heritage of Europe***, as "groups of buildings: homogeneous groups of urban or rural buildings conspicuous for their historical, archaeological, artistic, scientific, social or technical interest which are sufficiently coherent to form topographically definable units."

p.2. European Treaty Series No. 121 Convention for the Protection of the Architectural Heritage of Europe \* Granada, 3.X.1985.

### ***Protected Structures in Irish Law:***

*A structure must be listed on the planning authority's **Record of Protected Structures (RPS)** to qualify for protected status under the Act. 'The RPS must include every structure in the planning authority's area of special interest. Inclusion of these structures in the RPS means that their importance is recognised, they are legally protected from harm and all future changes to the structure are controlled and managed through the development control process'*

To quote the relevant section of the planning and development act (2000): 57.—(1):  
"Notwithstanding section 4 (1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of - (a) the structure, or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest."

If a structure is included in the RPS, the protection extends to the interior of the structure, the

land and curtilage (meaning the land and all outbuildings immediately surrounding a structure) which is (or was) used for the purposes of the structure. In other words, the Dublin Central proposal to demolish the O'Connell Street terrace and retain the facades is not only blatantly illegal, it is in direct violation of the planning legislation.

### ***Dublin City Development Plan 2016–2022 Record of Protected Structures:***

Section 58 states that '(1) each owner and each occupier (i.e. the developer) shall, to the extent consistent with the rights and obligations arising out of their respective interests in a protected structure or a proposed protected structure, ensure that the structure, or any element of it which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, is not endangered.'

Any other adjacent structures on that land and their interiors, and all fixtures and features forming part of the interior and exterior of the protected structure or any structure on the grounds attached to it, in other words, all the adjoining structures are regarded as having equal protection and status under the law. Dublin City Council (as part of its legal obligations under the act, maintains a list of protected structures in Dublin City with several of the Upper O'Connell Street terrace buildings included. The proposal to demolish and reconstruct the Upper Terrace is in direct contravention of the protected status of the buildings on O'Connell St. in particular.

### ***Protected Structures:***

Minor works to structures do not normally require planning permission under exempted development. For a protected structure, such works can be carried out without planning permission *only if the works would not affect the character of the structure or any element of the structure that contributes to its special interest.*

A declaration from the local authority is necessary as to the type of works which would or would not materially affect the character of the structure.

The planning authority could attempt to add and delete structures from its RPS when reviewing the development plan or at any other time. Three stages must be gone through before a structure can be added to the RPS:

### ***• Identification • Assessment • Notification:***

No such procedure has been initiated with the O'Connell Street buildings under consideration as part of the Dublin Central applicant plans.

### ***1922 O'Connell St. Architecture in context:***

Post – Independence architects made efforts to reflect the 18th century layout as part of the post War of Independence / Civil War reconstruction, their loss is basically a loss of 18th architectural form in O'Connell St. The 1922 architects correctly acted to retain the form of the 18th century buildings in their reconstruction. This is completely different from this pastiche effort where a sandblasted façade is inserted into the 18th century form of the street as part of a bulk office development.

### ***Test case for Planning and Heritage:***

Allowing the demolition of protected structures and façade retention alone could serve as a pretext for the demolition of protected structures more generally, if listed buildings on the main street of the capital can be struck off the protected list (protected status applies to the structure, not simply the façade), to facilitate a commercial development then the concept of heritage protection is itself meaningless.

In this case, the development is a test case for the legal status of protected structures under the Planning and Development (2000) Act.

Most of the O'Connell Street buildings strove to reflect the 18th century form of the destroyed and damaged buildings. These post 1922 structures should be retained in their entirety and not subject to destruction as they are as much a part of Ireland's architectural history as the General Post Office, which was also reconstructed after 1922.

The G.P.O. has just as much heritage protection as the Upper O'Connell Street terrace, and could in the future be *subject to equal alteration and destruction* should the *present* (5126/22) application be granted permission.

#### ***Delisting Historic Buildings:***

If listed buildings can be destroyed then the protective heritage legislation is redundant, it has no legal value and can be overridden. O'Connell Street is therefore a test principle of this view, the structures are valueless at the stroke of a pen. The legislation is clear that a *separate planning process initiated by the local council is necessary to remove a protected structure*. This clearly has not occurred, and the properties remain on the protected structures list.

#### ***Delisting is for purposes of Conservation, not removal:***

Also, the works involved *must not materially alter the character of the structure*, demolition alters the character of the structure, façade retention or not. " 57.—(1) Notwithstanding section 4 (1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of — (a) the structure, or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest." —

This proposal is direct violation of the spirit and substance of current Irish planning and heritage legislation and arguably, of the Convention for the Protection of the Architectural Heritage of Europe, on which the planning and development act 2000 is in part based.

#### ***Heritage removal on O'Connell Street:***

The Upper O'Connell St. terrace are the last remnants of the original 18th century Georgian mall, and are successful in themselves as a resurrection of the spirit of the original conception of O'Connell Street.

The proposed demolition in O'Connell Street acts directly against protective legislation in Ireland and against the spirit of *Article 5 of the Convention for the Protection of the Architectural Heritage of Europe* **Article 5.** "Each Party undertakes to prohibit the removal, in whole or in part, of any protected monument, except where the material safeguarding of

such monuments makes removal imperative. In these circumstances the competent authority shall take the necessary precautions for its dismantling, transfer and re installation at a suitable location." (ratified by Ireland in 1997).

### ***Upper O'Connell Street, Dublin 1:***

The '[Dublin Central](#)' development proposal (currently on appeal before the planning board ([An Bord Pleanála](#)), lies directly within the [O'Connell Street Architectural Conservation Area](#) and adjoins other listed buildings including the [General Post Office](#). The proposed development includes itself several Protected Structures in the location. The buildings planned for demolition as part of the 'Dublin Central' scheme, on O'Connell Street, include:

#### 43, O'Connell St. Upper, Dublin 1



No.43. is a terraced two-bay five-storey building over partially exposed basement, dated 1925, with shopfront to ground floor having recent fittings. Now in use as public house with two-storey brick building fronting onto Moore Lane. rebuilt after 1922 and a protected structure. This commercial building was built to replace an earlier house following the destruction of much of the streetscape during the 1916 Rising. Built as a shoe shop in 1925 by Batchelor and Hicks, the building shares much of its detailing with contemporaneous structures on the street. The NIAH state that the 'scale and plot ratio' of the shop follows in [the tradition of the original streetscape](#) and stands adjacent to the only recognisable original Georgian townhouse remaining. Ned Kelly's displays an array of quality stone carving and retaining one of the best preserved shopfronts on the street, this building plays an important role in the overall impression of the street and forms a part of the '*wealth of early twentieth-century structures that [now defines the character of the area.](#)*'

#### 44 O'Connell St. Upper, Dublin 1,



was reconstructed after 1922, internally similar to a 18th century structure, and is a [protected structure](#).

Rebuilt after the destruction of the 1916 Rising, this building was originally Adam Scott & Company, shippers of wine and foreign spirits and wholesale tea merchants. The building forms one of three Portland stone structures built in a row and sharing a similar massing, parapet and cornice height. It is echoed particularly at No. 43, an Ionic version of the same building. The NIAH speak of the building as having a 'thoroughly-executed design' which forms a *'good aesthetic and positive example of Irish Art Deco architecture'*, and has *'further heritage value with the retention of original fenestration and a partially-retained pink granite and limestone ground floor. It forms an integral part of the rhythmic streetscape and echoes similar structures across the wide thoroughfare.'* In short, the building reflects and reinforces both the variety of the streetscape and displays the discipline of the architects who could both work to restore the original fabric as much as was in their brief to do so and introduce a new façade which reflected the form of the old Georgian street.

[45 O'Connell St. Upper, Dublin 1](#)



[No.45 Upper O'Connell Street](#)

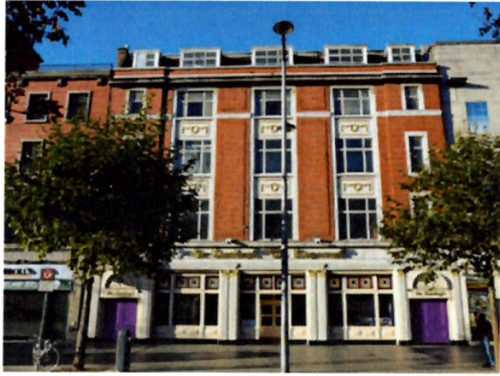
Though built in 1925 - 1935 and whose flat-arched door opens to the rear wall on Moore Lane, nonetheless part of the surviving structure was built in 1789 of Portland stone, and is a protected structure and unique in Dublin City. The façade reflects 18th century architecture as the 2021 application acknowledged.

[52-54 O'Connell St. Upper, Dublin 1,](#)



The Carlton Cinema, is fine art deco building and is a protected structure, it has one of the [finest art deco facades in the city.](#)

[55-56 O'Connell St. Upper, Dublin 1.](#)



**History:** This commercial building was built to replace earlier structures damaged during the 1916 Rising. *'The present shopfront possibly disguises the original scheme beneath but manages to respect the symmetrical five-bay arrangement of the upper floors. The retention of original steel windows and façade embellishments gives the structure some integrity and forms part of the early twentieth-century character of the streetscape.'* No.s 55-6, was built in 1924 to replace several earlier buildings damaged during the 1916 Rising. NIAH No.50010542 Rating Regional Categories of Special Interest - Architectural, Artistic 1920 – 1925. The building is not protected.

[Dr Quirkey's Good Time Emporium, 55-56 O'Connell Street Upper, Dublin, DUBLIN - Buildings of Ireland](#)

[57 O'Connell St. Upper, Dublin 1](#)



red brick structure and protected. It was rebuilt in 1925 after destruction in 1922. Designed by W.H. Byrne in 1924 the building respects the traditional Georgian plot ratio of the previous building.

[58 O'Connell St. Upper, Dublin 1](#)



No.58 is another protected building, is a terraced three-bay four-storey commercial building, built c.1925. it shares an interior lightwell with No.57. The building was expensively built of brick and granite and was erected as part of the reconstruction of O'Connell Street following the widespread destruction during the 1916 Rising. No. 58 was designed by Adam Millar in 1922 in a conservative Art Deco manner the building nevertheless respects *the [traditional Georgian plot ratio](#) of the previously devastated building.*

In the words of the [National Inventory of Architectural Heritage \(NIAH\)](#), *"the retention of the shopfront surround and original name to the fascia in addition to the elaborate granite details adds to the wealth of early twentieth-century architecture that forms much of the character of the street."*

[61 O'Connell St. Upper, Dublin 1](#)



No. 61 is of 18th Century origin (1750), and as such is a unique survivor of the destruction of both the 1916 and 1922 street fighting in Dublin, also slated for demolition. This former Georgian townhouse is one of the few buildings to survive the destruction of the 1916 Rising and the subsequent war of Independence. It was converted for commercial use by architect [Edwin Bradbury](#) in 1913. In the words of the NIAH "*the graduated fenestration pattern is the most obvious sign of its eighteenth-century origins, while the decorative window surrounds appear much later but nonetheless add to the wealth and variety of building types on this streetscape.*"

***The Importance of the O'Connell Street Terrace:***



**44 O'Connell Street, Dublin 1. [O'Connell Street Upper Garda Station, 44 O'Connell Street Upper, Dublin, DUBLIN - Buildings of Ireland](#)**

These outstanding pieces of architecture and of Dublin's unique architectural history are slated for demolition, with facades retained as part of this retail and office development of which this is the latest in an ongoing series of applications. However, this is complete destruction of these unique pieces of Dublin architecture, these date from the 18th century, to the rebuilding after the war of independence, to the art deco ([Carlton](#)) cinema of the 1930's.

The 1916-22 street buildings are fine examples of architecture, and constitute not merely fine facades of cut stone and red and brown brick, but [Portland stone](#) on O'Connell Street. These buildings constitute a historic record of O'Connell Street's 18<sup>th</sup> century origins as well as its subsequent reconstruction post 1916 and 1922 and which were clearly carried out to a very high standard. The early 20th century architects sought to reflect the old Georgian 18th century layout as part of the post War of Independence / Civil War reconstruction, so the proposed destruction of this terrace is a complete loss of 18th architectural form in O'Connell Street itself. This loss, as is clear from the photomontages is final.

***Proposed Development:***

The photomontages give an impression of blank monolithic and oppressive brutalism which effaces the 18<sup>th</sup> century terrace. The photomontages make clear, however, that the destruction and rebuilding in Parnell and Moore streets (first to build the [IIAC Centre](#) and in the demolition of Parnell Street in to build the [Inner Tangent road](#)), is repeated and in fact intensified by this Dublin Central proposal which no amount of statements of clarification and cultural definition can disguise.

This is apparent in the montage before and after on the view across from the [Rotunda Hospital](#) where the dull mirrored glass effect of the Jury's hotel is reinforced by the dull monochrome coloured Dublin Central block behind. The terrible damage brought upon Parnell Street to build the Inner Tangent Road and the brutalist ILAC Centre is reinforced, not changed by the dull uniformity of this office and retail proposal.

That this is even more apparent from Moore Street view of the O'Connell St. block and no photomontages (even the distant views) make apparent the startling alteration in the O'Connell Street Mall view.



**Façade, 43 O'Connell Street. [43, O'Connell St. Upper, Dublin 1](#)**

The cheap commercial architecture which eventually replaced the 18<sup>th</sup> century shops and markets in Moore and Parnell streets is reinforced, not transformed by the Dublin Central Proposal, and is a continuation of the destruction of the Moore Street markets and streets to build the IIAC Centre in the 1980's. In fact, the earlier 1975 proposal '[Dublin Centre](#)' bears some echoes of the present proposal, with its mix of offices, hotel and retail. The ongoing proposal to demolish listed buildings on O'Connell Street will serve as a licence for demolition of old buildings in Dublin city, if listed buildings on the main street of the capital can be struck off the protected list (the protected status [applies to the structure, not simply the extent façade](#)), to facilitate this commercial development then the concept of protected status under law is redundant.

O'Connell Street will stand in the dismal record of [Parnell Street](#), [Fitzwilliam Street](#) and [Wood Quay](#) as an example of pointless and destructive development carried out to facilitate commercial interests.

It is my view that the Dublin Central *ABP-318316-23 - 5126/22* application should be rejected.

Brian McGrath.

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Ireland

27<sup>th</sup> November 2023.