S. 37

File With _____

SECTION 131 FORM

Appeal NO:_ABP 312642 **Defer Re O/H** ☐

Having considered the contents of the submission dated/ received 9/2/24 - email from

Stephen Tray I recommend that section 131 of the Planning and Development Act, 2000 be/not be invoked at this stage for the following reason(s): no new material planning issues

E.O.: [signature] **Date:** 09/02/24

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage. ☐

Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: _____ **Date:** _____

S.A.O: _____ **Date:** _____

M _____

Please prepare BP _____ **- Section 131 notice enclosing a copy of the attached submission**

to: _____ **Task No:** _____

Allow 2/3/4weeks – BP _____

EO: _____ **Date:** _____

AA: _____ **Date:** _____

S. 37

File With _____

CORRESPONDENCE FORM

Appeal No: ABP 312642-22

M _____

Please treat correspondence received on 9/2/24 **as follows:**

1. Update database with new agent for Applicant/Appellant _____	
2. Acknowledge with BP 23	**1. RETURN TO SENDER with BP** _____
3. Keep copy of Board's Letter ☐	2. Keep Envelope: ☐
	3. Keep Copy of Board's letter ☐

Amendments/Comments
Stephen Tray Response to S131

4. Attach to file	**RETURN TO EO** ☑
(a) R/S ☐ (d) Screening ☐	
(b) GIS Processing ☐ (e) Inspectorate ☐	
(c) Processing ☐	

	Plans Date Stamped ☐
	Date Stamped Filled in ☐
EO: [illegible]	**AA:** Cathy Carlton
Date: 9/2/24	**Date:** 9/2/24

Anthony McNally

From:	Stephen Troy [redacted]
Sent:	Friday 9 February 2024 15:21
To:	Appeals2
Subject:	ABP 312603-22, 312642-22, 313947-22
Attachments:	Response to observationsABP 312603-22 312642-22 313947-22.pdf

Dear Sir / Madam,

Please find attached our response to submissions on the above subject appeals.

We trust you will consider the content accordingly.

Yours Faithfully,
Stephen Troy.

Dear Sir / Madam,

I am writing to take up the opportunity to reply to some of the submissions that were lodged in relation to the following planning appeal references:
ABP 312603-22
ABP 312642-22
ABP 313947-22

Response Dublin City Council:

"The Planning authority welcomes the comprehensive mixed use development set out in the proposals approved under reg.refs: 2861/21, 2862/21, and 2863/21 which would support and be in accordance with a number of policies and related objectives of the Dublin City Development plan 2022-2028; in particular policy SDRA01 and the guiding principles under SDRA10 North inner city and policy CEE2 which aims to take a positive and proactive approach when considering the economic impact of major planning applications in order to support development , enterprise and employment growth and also to deliver high quality outcomes."

It is unfathomable to expect businesses to take a positive and proactive approach to any project that will likely put them out of business throughout the lengthy overlapping construction phases to reap any beneficial outcomes that **MIGHT** occur post project. This statement is based on empirical evidence with our experience of the construction phase of the luas cross city project. We were told that the short term impact on businesses would be outweighed by the long term positive effects when the luas was operational, **HOWEVER** our business has **still** not returned to pre luas performance levels.

DCC and DublinTown are fully aware of the financial impact that these large construction projects have on businesses in close proximity of the site as they dragged us through the courts when we could not discharge our rates as a direct result of the downturn in business that occurred throughout the construction of the luas project.

It has also been **confirmed** by the previous chief executive Owen Keegan that Dublin City council and the Dept of heritage were involved in a commercially sensitive operation with the applicant that involved compensating Moore Street traders for the inevitable loss of trade that will occur on Moore Street throughout the lengthy overlapping construction phases that will durate for an inordinate time of 12-15yrs.

The following is a DCC Chief executive response about the matter:

Question to the Chief Executive **Council Meeting 7th February 2022**

Q.101 **COUNCILLOR MÍCHEÁL MAC DONNCHA**
PLG To ask the Chief Executive the position regarding a reported offer of compensation to street traders on Moore Street in relation to planning applications still in the planning process; the amount of City Council funds committed to this purpose if he considers it appropriate that a planning authority adjudicating on planning applications should offer such compensation; and if he will make a statement on the matter

CHIEF EXECUTIVE'S REPLY:
The matter of compensation for Moore St. Traders in the event of development has been discussed for many years.

The second cross party Ministerial Moore Street Advisory Group which published its final report "The Moore St. Report 2" in July 2019 recommended "In the exceptional circumstances of Moore St, Dublin City Council should establish an ex gratia compensation fund for current licence holders who wish to exit the Market." Throughout Dublin City Council's, Moore St. Market Expert Group process, during 2020, the matter of what would happen to the traders in the event of development was constantly raised.

The third cross party Ministerial Moore Street Advisory Group began meeting in early 2021. During these meetings there were again calls for a compensation fund for traders to be established, from both 1916 relatives and public representatives.

In the spring of 2021, prior to a planning application, and in the context of everything above, Dublin City Council's Housing & Community Services Department, Casual Trading Section began to engage in a commercially sensitive process to try and put a framework in place to compensate traders in the event of development.

This was a tripartite framework with DCC, Department of Housing, Local Government & Heritage and Dublin Central GP Ltd. (Hammerson) partaking to compensate traders as all three DCC, DCGP and the Dept. brought forward proposals that may have an impact on traders over the coming years: DCC on the upgrading of Moore Street, the Dept. on the restoration of the National Monument as a commemorative centre and DCGP on the delivery of the Dublin Central site and Enabling Works for MetroLink.

The third cross party Ministerial Moore St. Advisory Group subsequently recommended a compensation fund for traders to be established in its final report in May 2021.

Engagement on this matter has been ongoing but no agreement has been reached to date.

Contact. Coilin O'Reilly, Assistant Chief Executive
E-mail: coilin.oreilly@dublincity.ie
Tel 222 2010

There has been absolutely **no consideration** for independent businesses on Moore street who will be **forced** out of business by the construction traffic, noise pollution, and that are expected to remain viable on a dirty, derelict market place throughout the various over-lapping lengthy construction phases.

It has also been recently confirmed in writing by Emer Connolly the principal officer in National Monuments that they intend on compensating the street traders as per the recom mendations of the MSAG reportif planning permission is granted which will also result in the loss of the market and the footfallit generates, not to mention the loss of footfall of the current tenants occupying the 61 retail units to be re-developed.

On 20 Nov 2023, at 16:56, Emer Connolly (Housing) <Emer.Connolly@housing.gov.ie> wrote:

Dear Stephen,

I am writing this in response to your email yesterday, 14th November, and your previous correspondence to Ministers Noonan and O'Brien of 4th October.

In relation to your comments on an FOI request, a review of any decision can be requested **within 3 weeks** of the decision, and this review must be carried out by an official who is more senior than the person who made the original decision.
However, if you are still unhappy with the outcome of this review, you can make an appeal to the Information Commissioner (normally 6 months to appeal the Decision). All this information would have been set out in the Decision Letter to the FOI request.

The Role of the Moore Street Advisory Group was to represent and work with all stakeholders (including Hammerson which owns the development site surrounding the national monuments at Nos. 14-17 Moore St) in order to help broker development solutions that could be supported by all concerned.

There was some limited preliminary discussion with the traders on a possible compensation package led by Dublin City Council. The Department was indirectly engaged at one stage in some limited preliminary discussions, led by Dublin City Council, regarding compensation for the Moore Street traders arising out of a range of schemes of works to be carried out in the area, each of which could disrupt the traders' business

However, given the fact that Hammerson's Planning permission applications for the area surrounding the national monument were (and still are) live, the Department withdraw from these talks to avoid any potential conflict of interest. As you are aware, the Minister is a statutory consultee under the Planning and Development Acts.

In relation to the final MSAG Report of May 2021, it would be consistent with normal practice that a Chair of an Advisory Group would be responsible for the final editing of a report. This would take into account all views expressed, however not every single comment and viewpoint would necessarily end up in a final report.
As you will be aware, the recommendations in that report were accepted and noted at Cabinet and it is the intention of the Department that these recommendations will be fully implemented.
Again, I wish to reiterate that all allegations of impropriety on the part of the National Monuments Service, or those acting on behalf thereof in relation to any historic contacts with street traders or members of the advisory groups are completely unsupported by any evidence and must therefore be considered totally without foundation. Accordingly, I must consider this matter closed and I will not be in a position to engage further with you on it.

As promised when we met and through further correspondence we will communicate in relation to the works at the national monument at Nos. 14 to 17 Moore Street, and we will be receiving a short update from the Office of Public Works (OPW) within the next day or so and will be issuing this to relevant stakeholders including yourself.

Kind regards,

Emer

Emer Connolly

Principal Officer

Director
National Monuments Service
Seirbhís na Séadchomharthaí Náisiúnta

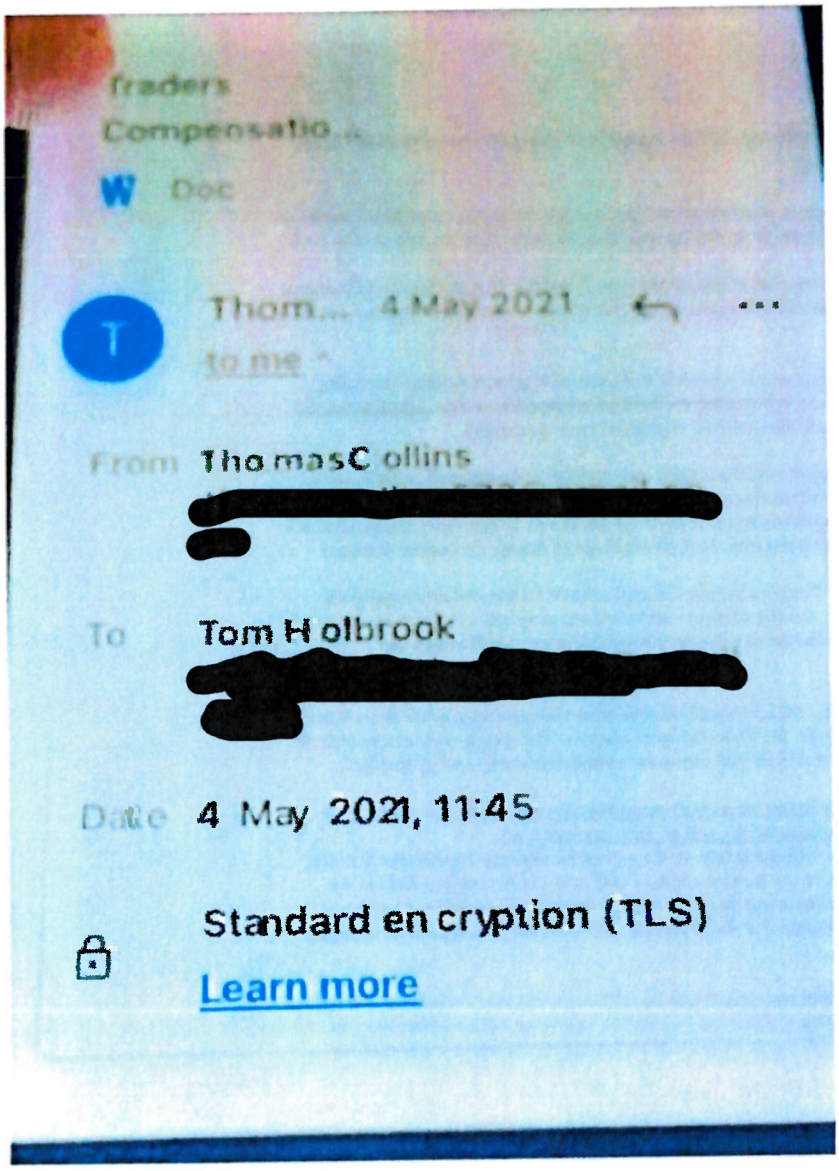
Mob: [redacted] Email: emer.connolly@housing.gov.ie

www.housing.gov.ie
www.tithiocht.gov.ie

Seirbhís na Séadchomharthaí Náisiúnta
National Monuments Service

An Roinn Tithíochta, Rialtais Áitiúil agus Oidhreachta
Department of Housing, Local Government and Heritage

We have provided The Dept of heritage and An Bord Pleanala enough evidence to convey that the **MSAG report** is severely compromised.



"Dear Terry/Coilin,

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Tom"

The chairperson (*who should hold an unbiased role in public office under the code of ethics)* sent an email to the moore street traders offering them compensation just fifteen minutes before the final meeting of the MSAG (4th of May 11:45am) which undoubtedly had an improper influence on the **final** report.

We also have email clarification from the department of heritage outlining that Hammerson's only input into the **MSAG** was to present their plans for Dublin Central to the members of that forum however the above email conveys the applicant Mr. Ed Dobbs was able to **influence** the final report by offering compensation through the chairperson.

We believe It is against the law 'under Criminal Justice (Corruption Offences) Act 2018.'

This offence is highlighted in section 6 of the act: Active and passive trading in influence

6. (1) A person who, either directly or indirectly, by himself or herself or with another person— (a) corruptly offers, or (b) corruptly gives or agrees to give, a gift, consideration or advantage in order to induce another person to exert an improper influence over an act of an official in relation to the office, employment, position or business of the official shall be guilty of an offence.

(2) A person who, either directly or indirectly, by himself or herself or with another person— (a) corruptly requests, (b) corruptly accepts or obtains, or (c) corruptly agrees to accept, for himself or herself or for any other person, a gift, consideration or advantage on account of a person promising or asserting the ability to improperly influence an official to do an act in relation to the office, employment, position or business of the official shall be guilty of an offence.
(3) For the purposes of subsections (1) and (2), it is immaterial whether or not— (a) the alleged ability to exert an improper influence existed, (b) the influence is exerted, (c) the supposed influence leads to the intended result, or (d) the intended or actual recipient of the gift, consideration or advantage is the person whom it is intended to induce to exert influence.
section 8 of Act:
Giving gift, consideration or advantage that may be used to facilitate offence under this Act
8. A person who gives a gift, consideration or advantage to another person where the first- mentioned person knows, or ought reasonably to know, that the gift, consideration or advantage, or a part of it, will be used to facilitate the commission of an offence under this Act shall be guilty of an offence.

It is also clearly evident by the above email that the applicants DCGP (a multi national investment fund) had an input and an **improper influence** over the final content of the MSAG report and were directing senior officials and the chairperson on the compensation process unbeknownst to the other members of the MSAG.

In short DCC, DHLG, and the applicant are **fully aware** of the unworkable trading environment that will arise as a direct result of the lengthy overlapping construction phases involved in the

delivery of this masterplan otherwise they **NEVER** would have been involved in the "commercially sensitive compensation process" in the first instance , or was the compensation process to **sway the final outcome** of the MSAG report? We'll let the judge decide at the judicial review.

Response to:
Shane Stokes
Diarmuid Breatnach
Relatives of the signatories 1916 Proclamation
Mary Lou McDonald
Moore Street preservation trust.

I fully agree and support the content of all of the above submissions. If any place in Ireland deserves to be protected for future generations it's Moore Street and its environs where men women and children died fighting for our freedom. This statement doesn't mean I'm joining a splinter group of The IRA in the morning, this means we as Irish people should be proud of our heritage and our struggle for Independence. The current government have **failed** Moore Street for an inordinate amount of time but its of crucial importance to realise its potential as a cultural quarter especially with current retail failing in the city centre.

The applicants plan involves wide scale demolition of historic plots, lane ways , and buildings and also involves losing the heritage of the generational 300yr old Moore Street market. I challenge you to name any other place more historically or culturally important than Moore Street.

Democratically elected members have decided to protect these structures and **hopefully** the entire terrace buildings, plots, and lane ways will become a national monument.

It's very worrying to see the Minister's department involved in the compensation process in correlation with these planning applications considering what's at stake and it's clearly evident a conflict of interest existed at council and department level.

Response to DublinTown:

Dublin town failed to represent its members in their submission on these planning applications despite Richard Guiney
holding zooms to listen to our relevant concerns and been fully aware that the project will force the very few remaining independent store traders on Moore Street out of business.

It's not surprising that Hammerson employees are on the board of directors of DublinTown so that suggests there is a conflict of interest in their submission.

DublinTown have **miserably failed** in their duty to keep Dublin City vibrant. They have **failed** to insist on a proper shop usage policy or tackle DCC on the undesirable shop fit-outs on Moore Street and surrounding environs . If they think things are bad now - imagine what a 15yr construction site of chaos will do to the city centre.

Real economic growth does not involve destroying existing businesses that positively enhanced the retail shopping core for generations, wiping out what's left of the city centre throughout a 10-15yr construction programme is counter productive in the regeneration of any city centre.

Clery's quarter is a prime example of over supply of retail in the city centre, the shopping quarter has been finished for a considerable length of time yet they are struggling to get tenants, In fact, one whole floor has been let to the HSE as an outpatients department for the Mater hospital due to the lack of retail interest.

We also note that 44000 square feet of retail spreading over four floors still remains empty at the applicants previous Debenhams store and Argos (ilac centre) has also remained empty for over a year now too.

Once again, adding more retail to a city centre thats already surrounded by retail in a market that's struggling for oxygen is not a credible plan for the city centre when you consider the 1916 cultural quarter bill that was unanimously supported by elected members of the Dail.

Response to Stephen Little & Associates:

Throughout the booklet the applicants show their longterm intentions and expectations post project however there is **no mention of the catastrophic impacts** that a 15yr construction project will have on existing independent businesses and market traders on Moore Street considering site 5 will act as a servicing compound until the project is fully completed.

The applicants suggest they want to sensitively restore the area yet their plan involves wide scale demolition for the most historic site in modern Irish history?

We note the applicant's architect Stephen Little continuously refers to the **MSAG** report which we know from the above content was **severely compromised.**

The applicant had an **improper influence** over the final report and the chairperson who was involved in **secretly** offering compensation to street traders actually decided the **final content** of the MSAG report according to Emer Connolly which was confirmed by email on the 20/11/23 by the principal officer in the department of heritage.

"In relation to the final MSAG Report of May 2021, it would be consistent with normal practice that a Chair of an Advisory Group would be responsible for the final editing of a report."

I don't believe a 10-15yr construction programme spread over 5 separate planning applications is a credible plan for the site when considering the impact on trade suffered to date as a direct result of the applicants prolonged negligent management of the area in question.

A plan of restoration as proposed in the **1916 cultural quarter bill** and that was unanimously supported by elected members of the Dail is much more fitting for a city centre that's in **urgent** need of enhanced footfall and regeneration.

It's also an important **legal point** that An Bord Pleanala understand that Mr. Justice Max Barrett has already ruled **correctly** that the site in question is worthy of national monument status under national monument law.

His ruling was overturned **solely** because he had no jurisdiction as a high court judge to declare national monument status on a building or place and such declaration can only be done so by the minister of heritage, with that said, the history of the area can never change and on an important **legal point** under national monument law the entire site should be restored and not demolished.

We ask An Bord Pleanala to **refuse permission** on these planning applications brought forward by DCGP.

In the interim, we prepare for judicial review.

Yours Faithfully,

Stephen Troy.
Director

Troys Family Butchers Limited
Unit 6, Greeg Court
Moore Street,
Dublin

Dear Sir / Madam,

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Kind regards

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Principal Officer

Director
National Monuments Service
Seirbhís na Séadchomharthaí Náisiúnta

Mob: [redacted] Email: emer.connolly@housing.gov.ie
www.housing.gov.ie
www.chg.gov.ie

Seirbhís na Seadchomharthaí Náisiúnta
National Monuments Service

An Roinn Tithíochta, Rialtais Áitiúil agus Oidhreachta
Department of Housing, Local Government and Heritage

Email Content has been Provided to confirm the allegations of impropriety are true and will be Provided in the event of a Judicial review.

We have provided The Dept of heritage and An Bord Pleanala enough evidence to convey that the MSAG report is severely compromised.

(Chairperson)

(Street traders)

(fifteen minutes before meeting)

[redacted]

"Dear Terry/Colin

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holding zooms to listen to our relevant concerns and been fully aware that the project will force the very few remaining independent store traders on Moore Street out of business.

It's not surprising that Hammerson employees are on the board of directors of DublinTown so that suggests there is a conflict of interest in their submission.

DublinTown have **miserably failed** in their duty to keep Dublin City vibrant. They have **failed** to insist on a proper shop usage policy or tackle DCC on the undesirable shop fit-outs on Moore Street and surrounding environs . If they think things are bad now - imagine what a 15yr construction site of chaos will do to the city centre.

Real economic growth does not involve destroying existing businesses that positively enhanced the retail shopping core for generations, wiping out what's left of the city centre throughout a 10-15yr construction programme is counter productive in the regeneration of any city centre.

Clery's quarter is a prime example of over supply of retail in the city centre, the shopping quarter has been finished for a considerable length of time yet they are struggling to get tenants, In fact, one whole floor has been let to the HSE as an outpatients department for the Mater hospital due to the lack of retail interest.

We also note that 44000 square feet of retail spreading over four floors still remains empty at the applicants previous Debenhams store and Argos (ilac centre) has also remained empty for over a year now too.

Once again, adding more retail to a city centre thats already surrounded by retail in a market that's struggling for oxygen is not a credible plan for the city centre when you consider the 1916 cultural quarter bill that was unanimously supported by elected members of the Dail.

Response to Stephen Little & Associates:

Throughout the booklet the applicants show their longterm intentions and expectations post project however there is **no mention of the catastrophic impacts** that a 15yr construction project will have on existing independent businesses and market traders on Moore Street considering site 5 will act as a servicing compound until the project is fully completed.

The applicants suggest they want to sensitively restore the area yet their plan involves wide scale demolition for the most historic site in modern Irish history?

We note the applicant's architect Stephen Little continuously refers to the **MSAG** report which we know from the above content was **severely compromised.**

The applicant had an **improper influence** over the final report and the chairperson who was involved in **secretly** offering compensation to street traders actually decided the **final content** of the MSAG report according to Emer Connolly which was confirmed by email on the 20/11/23 by the principal officer in the department of heritage.

"In relation to the final MSAG Report of May 2021, it would be consistent with normal practice that a Chair of an Advisory Group would be responsible for the final editing of a report."

I don't believe a 10-15yr construction programme spread over 5 separate planning applications is a credible plan for the site when considering the impact on trade suffered to date as a direct result of the applicants prolonged negligent management of the area in question.

A plan of restoration as proposed in the **1916 cultural quarter bill** and that was unanimously supported by elected members of the Dail is much more fitting for a city centre that's in **urgent** need of enhanced footfall and regeneration.

It's also an important **legal point** that An Bord Pleanala understand that Mr. Justice Max Barrett has already ruled **correctly** that the site in question is worthy of national monument status under national monument law.

His ruling was overturned **solely** because he had no jurisdiction as a high court judge to declare national monument status on a building or place and such declaration can only be done so by the minister of heritage, with that said, the history of the area can never change and on an important **legal point** under national monument law the entire site should be restored and not demolished.

We ask An Bord Pleanala to **refuse permission** on these planning applications brought forward by DCGP.

In the interim, we prepare for judicial review.

Yours Faithfully,

Stephen Troy.
Director

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