

File With \_\_\_\_\_

## SECTION 131 FORM

Appeal NO: ABP 313947-22

Defer Re O/H

TO: SEO

Having considered the contents of the submission ~~not~~ received 15/08/2022  
fromElizabeth 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  
Issues raisedE.O.: Aisling LeahyDate: 29/08/2021

To EO: \_\_\_\_\_

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 2/3/4 weeks – BP \_\_\_\_\_

EO: \_\_\_\_\_

Date: \_\_\_\_\_

AA: \_\_\_\_\_

Date: \_\_\_\_\_

# AN BORD PLEANÁLA

LDG- 056208 22

ABP- \_\_\_\_\_

15 AUG 2022

Fee: € 50 Type: Cheque

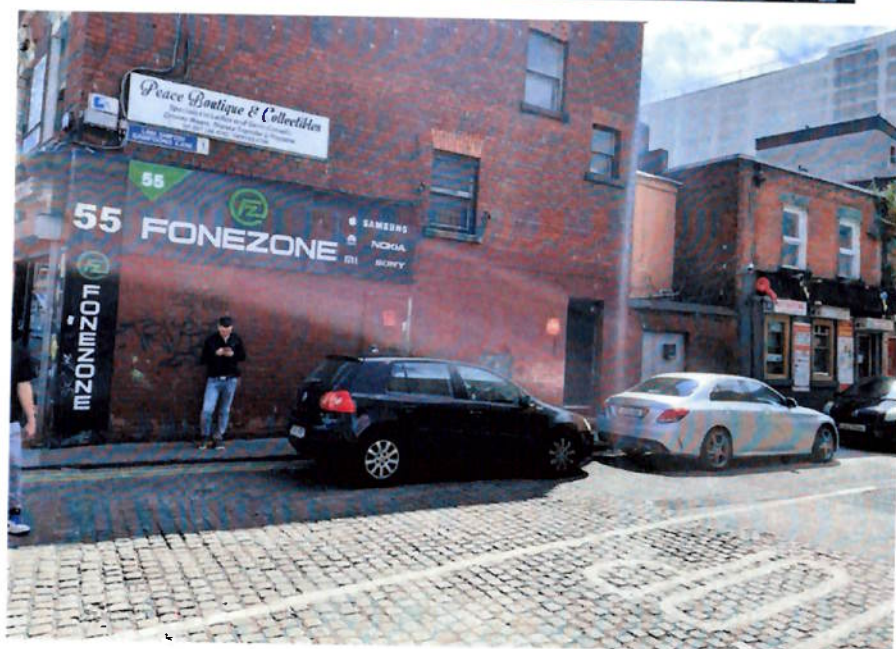
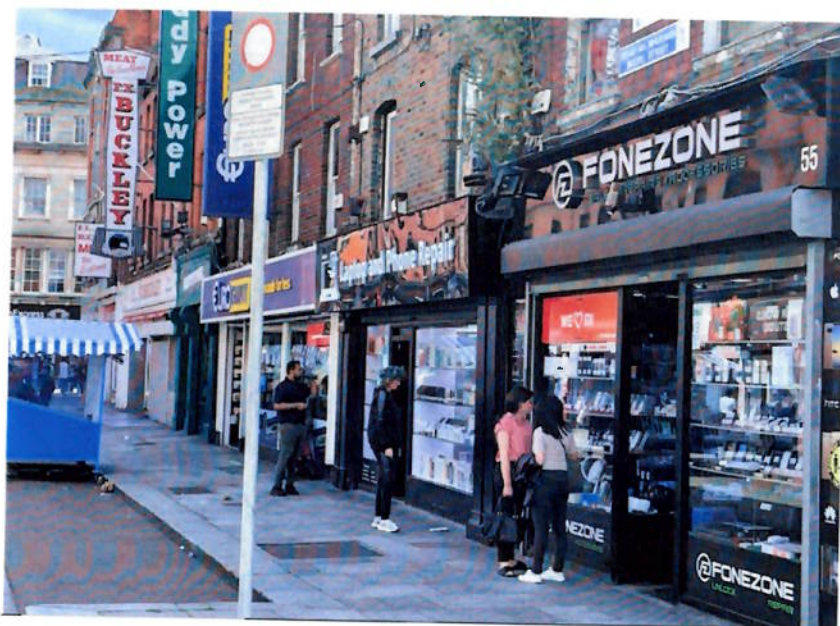
Time: \_\_\_\_\_ By: \_\_\_\_\_

15<sup>th</sup> August 2022

Dear An Bord Pleanála,

I am writing to you to lodge an observation on appeals lodged against planning applications 2863/21, ABP reference 313947/22.

The developers failed to declare their ownership of the Ilac centre and retail units 55, 56, & 58 Moore Street and other properties located in Sampsons lane (pics below) within their planning applications. It is my understanding they own most properties on the street with the exception of FX Buckley's, Troy's, and Centra.



The applicants can issue rent free periods to their tenants on Moore Street / Ilac who will be inevitably disrupted due to the size and nature of their construction project , however, the independent store traders have given personal guarantees within their leases and will be liable for all charges that recur on the retail unit whether our business survives or not as we also have a duty to find a tenant to take over the lease. There won't be many people looking to start up a business on a building site.

We suffered a 35-40% (€6-€7k) drop in sales per week throughout the lengthy construction phase of the Luas Cross City project which affectively made our business inviable.

We restructured the business and unfortunately lost staff as a direct result of the disruption. We had to start trading 2hrs extra daily and began opening Sundays and bank holiday Mondays to try mitigate the impact, however, we still fell into huge rent, rate, bid levy , and water rate arrears.

We were told that the short-term construction impact (5yrs) would be outweighed by the long-term positive affect the Luas would have on businesses when operational in the city centre. Our business has never returned to pre-Luas performance levels and the construction phases of the project wiped out most of the original long standing neighbouring tenants in the vicinity of the works.

We had to invest substantial directors' loans into the business just to stay trading and have proceedings STILL pending to the high court almost 7yrs later in the hope of retrieving our losses.

DCC and DublinTown are fully aware of our situation as they had us in court about the accumulated arrears, yet Dublintown have lodged a submission saying that construction projects in the city have not caused undue difficulties for businesses and have pencilled us in for more of the same. We are only getting back on our feet now (5yrs later) with Rates, Rent, BID levies, and water rates, to be facing the same scenario all over again but on a much bigger scale!

It's disappointing that DCC repeatedly refer to the findings of the MSAG in their planning reports despite the numerous media articles saying the report was compromised and likely influenced by offers of compensation. We also note members of the group are saying that the report that was agreed on is not the same report that was submitted to the minister.

## Allegations of attempted bribery on Moore St

*Sinn Féin TD has lodged complaint to Garda about Moore St traders being offered substantial payments to vote in favour of Hammerson plan, which demolishes much of Moore St, in breach of corruption legislation*

By Frank Connolly

**L**AST MONTH, Aengus Ó Snodaigh TD made some very serious claims in an article on Village's website. He alleged that four individuals may have been illegally involved in effectively bribing Moore Street Traders to vote a certain way, within a committee called the Moore Street Advisory Group (MSAG). The group was set up to advise Malcolm Noonan TD, junior minister for heritage, on what action the Government should take in relation to planning or legislative measures, on the large site embracing O'Connell St and Moore St, which contains sensitive historic structures designated as national monuments. The current plan from its owners, Hammerson, would effectively knock most of the famous Moore Street terrace, site of the retreat by the leaders of the 1916 Rising.

Ó Snodaigh has indicated to Village that, following Minister Noonan's dismissal of his request that the minister contact An Garda Síochána on this matter, he intends to lodge a criminal complaint. This will include naming five individuals, whom he has said may have been involved in wrongful or illegal activities.

"I intend to lodge a complaint and to submit extensive material, including some not yet in the public domain, with a statement detailing the names of those I believe were involved in trying to bribe Moore Street traders to vote in a particular way on the ministerial Moore Street Advisory Group in May of last year", Ó Snodaigh said on 11 July.

Similar allegations have been made by a Moore Street trader to several people, including to businessman Stephen Troy of Troy Butchers, and others. They can be broken down into the following: that Moore Street market traders

received three financial offers, rising in value, with the last offer totalling €1.7 million or €100,000 per trader. These offers were made on condition that the traders supported the Hammerson development in a vote on the MSAG, it is claimed. The funds would be provided by Hammerson and Dublin City Council, ostensibly as compensation to the street traders for the potential disruption of their businesses during the redevelopment work.

The traders were allegedly told that nobody else could be informed of these financial discussions, least of all other members of the advisory group. They were also allegedly told that they must vote in favour of the Hammerson plan and that no objections should be lodged against the company's planning application to Dublin City Council. And they were allegedly told they should not support Ó Snodaigh's legislation on Moore Street, the 2016 Culture Quarter Bill 2021 on the MSAG, having originally supported it and to lobby other political representatives to oppose it.

Before these compensation offers were allegedly made, the traders were steadfast against Hammerson's proposal, as reflected in their submission to the group in February and late April 2021, two working days before the final vote. That was important since they could have had the decisive votes. As Ó Snodaigh put it in Village:

"If, for example, Brid Smith TD, Jim Connolly Heron, Councillor Dúnna Cooney, Neasa Hourigan TD and I all opposed the Hammerson plan, then the traders would have had the two deciding votes. Even if the other six members of the group, who had adopted an essentially uncritical position on the Hammerson proposals from day one, supported the Hammerson plan, the group would have still

produced seven to six against it. Turning the traders' to support the plan would have been crucial for those who believed in the planning permission".

This can be backed up by people communicating with Village on this topic. We have been provided with details of emails and other messages between a trader and one of the persons against whom the allegations are being made, discussing the first offer. In this correspondence, it was noted that in return for the offer the traders would, or were expected to: "1. Vote for the Hammerson plan at the MSAG. 2. Support the Hammerson planning permission at DCC and An Bord Pleanála stages. 3. Lobby politicians and individuals to support the Hammerson planning permission and oppose legislation (Ó Snodaigh's) 1916 Culture Quarter Bill 2021".

One of the most prominent traders who was in direct communication with some of those who are the subject of the Garda complaint has agreed to co-operate with any subsequent criminal investigation. "It would be illegal if he did not. He admits that he thinks that a crime occurred but also claims that the traders should be compensated and is not willing to co-operate with or assist in the uncovering of the alleged crime at the moment.



Aengus Ó Snodaigh

“Ó Snodaigh has indicated to Village that, following Minister Noonan's dismissal of his request that the minister contact An Garda Síochána on this matter, he intends to lodge a criminal complaint





Hammerson proposal for Moore Street

Stephen Troy also backed up the allegation, stating that "it's very clear to me that this was bribery, considering businesses with substantial trading costs weren't offered any money and nor were other traders who had no votes on the MSAG. Traders on Moore Street have further confirmed to me they were effectively bribed which undoubtedly resulted in a compromised MSAG report. These behind the scenes actions explain why the developers never engaged with independent businesses in close proximity of the site. Sure why would they? We don't have a vote".

In essence, while the MSAG was set up to advise the Minister, it was undermined in its work by being kept in the dark by undisclosed (until later revealed in Dáil Éireann) meetings between the Taoiseach, Michael Martin and the developer Hammerson leading to his support for the scheme; by the failure to disclose that a participant in the MSAG held a lease agreement on a key property under discussion; and by covert manoeuvrings with traders' representatives on a 'compensation' package for them

In crucial email correspondence, it was noted that in return for the alleged bribe the traders would, or were expected to: '1. Vote for the Hammerson plan at the MSAG. 2. Support the Hammerson planning permission. 3. Lobby for support for the Hammerson planning permission and 4. oppose Ó Snodaigh's 1916 Culture Quarter Bill'

If payments of public monies offered are proved to have been linked to a vote, it could be against the law under Section 7 and 8 of

the Criminal Justice (Corruption Offences) Act 2018.

So, applying the facts to the law as Ó Snodaigh did in his piece:

An Irish employee of a local authority or any other person acting on behalf of the public administration of the state who, does an act in relation to his or her employment, position or business for the purpose of corruptly (by any, i.e. other, means) obtaining consideration or advantage for himself or herself or for any other person, shall be guilty of an offence.

In this case it is clear that buying a vote, being the essence of acting with an improper purpose, is corrupt.

Any person offering payment for a vote would also be guilty of an offence under Section 8 of the Criminal Justice (Corruption Offences) Act 2018 (see box below and right).

Why these individuals were so interested in securing planning permission for a property developer is unclear. Village has previously reported that two of the individuals against

whom these allegations have been made have denied being involved in any such offer of compensation in exchange for trader support for the Hammerson plan.

Now, because the Minister, Malcolm Noonan, a member of the Green Party, has failed to act, Ó Snodaigh has reported it to the Garda himself.

Member of the MSAG and Green Party Councillor, Donna Cooney, speaking in a personal capacity has told Village that she was concerned at the perception that may arise from officials of DCC and the Department of Heritage engaging in discussion on compensation of traders, particularly as no planning application for the development had been submitted at that stage in May 2021.

"I am concerned about discussions on compensation involving Dublin City Council and the Department and the possible influence it brings. Given that there was no planning application for the development, I felt it was putting the cart before the horse. I am committed to the revitalisation of the Moore Street market rather than compensating people to leave it", said Councillor Cooney, a relative of Elizabeth O Farrell who famously surrendered to British forces with Pádraig Pearse, following the retreat to Moore Street. **LB**

## Criminal Justice (Corruption Offences) Act 2018

### "Corruption in relation to office, employment, position or business:

Section 7 (1) states: "An Irish official who, either directly or indirectly, by himself or herself or with another person, does an act in relation to his or her office, employment, position or business for the purpose of corruptly obtaining a gift, consideration or advantage for himself or herself or for any other person, shall be guilty of an offence".

### Section 2 (1) of the Act states that—

#### "Irish official means—

- (i) an officer, director, employee or member of an Irish public body (including a member of a local authority) or
- (ii) any other person employed by or acting for or on behalf of the public administration of the State;

"corruptly" includes acting with an improper purpose personally or by influencing another person, whether—

- (a) by means of making a false or misleading statement,
- (b) by means of withholding, concealing, altering or destroying a document or other information, or
- (c) by other means;

### Section 8 of the Act states that—

"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 [payment for votes] under this Act shall be guilty of an offence".

Hammerson, DCC, and The Dept of heritage who have all failed in their duties of care towards Moore Street for an inordinate amount of time NEVER considered the impacts of the overlapping construction phases on the few independent businesses who have already endured a decade of neglect and a decline in sales because of their negligent management of Moore Street. Businesses have already been brought to their knees and now we are expected to survive on a 10-15yr building site in a derelict marketplace. This project will be the final nail in the coffin for independent businesses who have traded on Moore Street for generations.

It's disappointing to discover that these three entities were all involved in a secret compensation process for Street traders and are willing to stand by idly and allow our generational business to go bankrupt. The compensation process was arbitrary, and the conditions of the offer are undoubtedly questionable under the law.

## Content taken from planners report accompanying these applications:

*The MSAG accepts that it will not be possible for the street traders to continue to operate on Moore Street while any major redevelopment scheme is under construction. As there is no suitable alternative location to where they could move temporarily while the works are in progress, the MSAG recommends that an adequate and appropriately structured compensation package should be put in place for the traders as soon as possible.*

*In acknowledging the comments of the MSAG in relation to the inability of street traders to operate during construction, any compensation agreement would be dealt with and agreed outside the realms of the Planning process and as such, consideration of the loss of the markets, on a temporary basis in any case, is considered here having regard to the impact in planning terms. Development Plan policy CEE18 seeks to "recognise the unique importance of Moore Street Market to the history and culture of the city and to ensure its protection, renewal and enhancement, in co-operation with the traders as advocated by the Moore Street Advisory Committee Recommendation relating thereto."*

*It is considered that the proposed development, post construction, will offer a significant opportunity for the markets to flourish and rejuvenate, resulting in additional footfall drawn through the area through a combination of new pedestrian routes and an eventual Metro entrance to the rear of Moore Street. In addition, a mixture of tourists within the proposed hotel in addition to the more permanent residents within the apartments, will provide consistent patronage and custom for the markets.*

### **Impact on Traders**

The issue of the impact on existing traders, including shop premises and street traders, has also been raised in a number of the third party submissions. In this regard the impacts would fall into two categories – temporary (i.e. during construction/demolition phases) and more permanent (i.e. when the proposed development has been completed). A number of the submissions make the point that some of the businesses may not survive the impact of the construction/demolition phase, and therefore would not be around to avail of any benefits such as increased footfall on completion of the proposed development.

As previously noted, it is development plan policy (CEE18(v)) to recognise the unique importance of the Moore Street market to the history and culture of the city and to ensure its protection, renewal and enhancement, in co-operation with the traders as advocated by the Moore Street Advisory Committee recommendation. Although the market has reduced in scale since the early years of the twentieth century, it still has a significant and colourful presence on Moore Street and the traders, who sell fresh produce, fruit, vegetables, flowers etc. operate from permanent pitches which are subject to regulation. From the submissions made, it appears that the main impacts at construction and demolition stage will be by way of construction/demolition dust, construction traffic on Moore Street and noise, which would result in a difficult trading environment particularly for the street traders. Although the EIAR does not identify these impacts as significant, it is accepted that the open air nature of the markets and the type of produce sold would make them particularly vulnerable to dust impacts.

It is noted that any development on the site would be likely to result in some degree of noise disruption during construction, including traffic impacts, dust, noise etc. In this regard the finding of the EIAR that a do-nothing scenario is not the preferred option, as it is considered contrary to the objectives of national, regional and development plan policy in relation to the regeneration of underutilised, brownfield sites within the city centre, is noted. The quantum of development proposed on the site is also relatively modest, although it does involve demolition works. There is also likely to be a cumulative impact when taken in conjunction with the development proposed on the two adjacent sites (Sites 3 and 5). In this regard it is noted that a seven-year permission is sought on the subject site, while the possibility of an extension to the duration of the permission at a future date cannot be ruled out.

In this regard, it will be necessary to balance the adverse impact on traders and the trading environment against the benefits of the proposed development in respect of regeneration and the planning gain incurred by the restoration of buildings, reuse of upper floors, proposed new public street and space and provision of active frontages to Moore Lane. The recommendations of the Moore Street Advisory Group, as set out in a report to the Minister for Heritage and Electoral Reform dated May 2021, are noted in this regard. The report recognises the need for compromise between stakeholders on individual components of the total picture and notes that the proposed development moves away from the indoor shopping centre model and towards a proposal which better preserves the urban heritage, in addition to the commitment to use the proposed new plaza for cultural events, reduction in commercial space in favour of new housing and hospitality uses and retention of No. 10 Henry Place. It is suggested that further planning gain could incur if the retail units were to be used for uses which reflect the interests of the 1916 period, such as bookshops, butchers, bakers and craft shops, in addition to a historically accurate history trail. The report also states that, as it will not be possible for the street traders to continue to operate on Moore Street while any major redevelopment scheme is under construction, while there is no suitable alternative location they could move to temporarily, an adequate and appropriately structured compensation package will need to be put in place for the traders in the event of permission being granted for the proposed development.

The operational impacts are less clear, although concern has been raised in relation to the impact of the archway opening on Moore Street, while the impact of additional retail on existing operators has also been raised. It is noted that the quantum of retail proposed on the subject site is modest and is mainly by way of replacement of existing retail space, along with additional cafe/restaurant space. Some additional retail space is proposed on Moore Lane, however, the quantum proposed is not considered to be of such a scale as to result in a threat to existing retailers. Some retail space is also proposed in the case of the two adjoining sites (Sites 3 and 5). While assessment of the impact of these is outside the remit of this report, it is noted that the overall proposal is not for a large retail centre with anchor units, as was previously permitted, but for a smaller scale of retail development in an area which is part of the city's northern retail core and

DCC planners fail to address the impact on independent businesses DURING the lengthy disruptive construction phases on a derelict Market place and assume we can survive on the custom of construction staff who all could possibly be vegetarian - A harmless statement with no evidence to back it up, however DCC planners negligently suggest we can survive on custom from construction workers, a deliberated decision that will destroy our livelihoods.

We will be forced out of business long before the project completes to reap the benefits that MIGHT arise after construction completes. Our lease hold will be subject for renewal on completion of this project and will be subject to a rent review on the basis of us continuing on with a new lease, gentrification will possibly force us out of business considering the extortionate rents the applicants are charging in their other commercial properties around the city. Rent reviews are estimated on going rates in the area.

Any Large-Scale planning proposal that will destroy existing long standing businesses is counterproductive in the long-term. We hope An Bord Pleanala will give our business due consideration and protect our constitutional right to earn a living and address our concerns in a condition of planning.



**DCC planners state that the EIA suggests that the correct provisions will be in place for noise, vibration and dust control;**

**Climate (Air Quality and Climate Change)**

*The EIAR notes that the impacts to air quality and climate have the potential to occur during both the construction and operational stage of the project. Dust emissions from construction traffic and general construction works may impact nearby sensitive receptors and during the operational phases the alteration to traffic flows associated with the proposed development may impact. The EIAR considers that the implementation of best practice mitigation measures will ensure the development complies with all EU ambient air quality legislative limit values and that the impact can be best defined as being short term, localised negative and imperceptible with respect to human health. The operational phase impacts are noted as being imperceptible, neutral and long term.*

DCC planners failed to recognise that there will be NO screening or dust control measures for our fresh food business located at the junction of Moore Street and O'Rahilly parade that will serve as the access route for all construction lorries (100+ daily) accessing and regressing the various site compounds, in particular, site 5 where a 15yr permission has been again requested and the granting of 7yrs will likely be extended in the future to ensure the completion of a project in our capital city.

Our shopfront will be destroyed with dust, and debris spillages, which will be exacerbated when junctions are widened and footpaths are curtailed, making it an unsafe shopping environment for pedestrians and customers alike. The pedestrian walkways on O'Rahilly parade will be removed and will result in a loss of custom to our store.



The proposed screening/hoarding and the traffic bollards that are erected at 11am will protect the market area from dust and construction traffic, but there are absolutely no provisions to protect our fresh food store from these elements as we are located before the traffic bollards. Our architects (DMOD) state we will in fact be the worst impacted stakeholder. Our shop will constantly be impeded by over 100 lorries daily and plagued by noise and strong Diesel fumes generated from heavy construction vehicles, the fact that site 5 will be last to be developed further impacts our business.



The developer has failed to explain how curtailing the footpath at our shopfront will create more space for lorries making the tight left turn into various site compounds when are sun awning boards the existing footpath. It was incredibly negligent of DCC not to insist on a detailed traffic management plan.

<https://youtu.be/KoYzhLKUAro>

The EIA fails to consider the impact on our fresh food business as a result of hoarding, dirt, construction traffic and the general undesirable shopping location that a large-scale construction site entails. Retail will be non-existent on Moore Street until the project completes.

We are baffled that there has been absolutely no engagement with independent store traders and the applicants to date. It's very concerning to see the applicants floating a 500M plan without any provisions for the very few remaining independent store traders in close vicinity of the site.

Our accountants advise us the costs of addressing the concerns of independent store traders would be minimalistic and wrote off in taxes against the profits on completion of the project, yet still no engagement?

One wonders were these applications lodged in an attempt to avoid the legislation of the cultural bill which received unanimous cross party support in Dáil Éireann?

We could be potentially left chasing 6 different developers and fighting 6 different legal teams if these planning applications for Dublin Central are sold on once again, we plead with an An Bord Pleanála to protect our livelihoods.

Progress on Dublin Central should not cost my whole family their livelihoods.

Yours Faithfully,

Elizabeth Troy  
Director

C/o

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