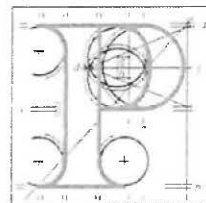


**Our Case Number:** ABP-317742-23

**Your Reference:** Bastille Realty Limited



An  
Bord  
Pleanála

Kieran O'Malley & Company Limited  
2 Priory Office Park  
Stillorgan Road  
Blackrock  
Co. Dublin  
A94 P281

**Date:** 24 July 2024

**Re:** BusConnects Bray to City Centre Core Bus Corridor Scheme  
Bray to Dublin City Centre.

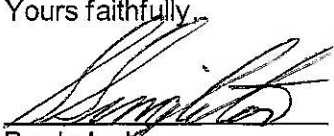
Dear Sir / Madam,

An Bord Pleanála has received your recent correspondence in relation to the above mentioned case. The Board will take into consideration the points made in your submission.

If you have any queries in relation to the matter please contact the undersigned officer of the Board at [laps@pleanala.ie](mailto:laps@pleanala.ie)

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

  
Breda Ingle  
Executive Officer  
Direct Line: 01-8737291

CH08

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64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902

**Sinead Singleton**

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**Subject:** FW: ABP-317742-23  
**Attachments:** Bastille Realty S217B Sub 12.07.2024.pdf

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**From:** KOM.ie | Raymond O'Malley <[REDACTED]>  
**Sent:** Friday, July 12, 2024 3:52 PM  
**To:** LAPS <[laps@pleanala.ie](mailto:laps@pleanala.ie)>  
**Subject:** ABP-317742-23

**Caution:** This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Dear Sir or Madam,

Please find attached a Section 217B submission on behalf of Bastille Realty.

Please acknowledge receipt of this submission.

Regards,

***Raymond O'Malley, Director***

Kieran O'Malley & Co. Ltd.  
Town Planning Consultants  
2, Priory Office Park  
Stillorgan Road  
Blackrock  
Co. Dublin  
A94 P281

PL: 01-252 4 2022077

[www.kom.ie](http://www.kom.ie)

12<sup>th</sup> July 2024

An Bord Pleanála (by e-mail: [laps@pleanala.ie](mailto:laps@pleanala.ie))  
(Strategic Infrastructure Division)  
64 Marlborough Street  
Dublin 1  
D01 V902

Ref.: ABP-317742-23  
Proposal: BusConnects Bray to City Centre Core Bus Corridor Scheme  
ABP Letter: 17<sup>th</sup> June 2024  
Submission By: 15<sup>th</sup> July 2024

**Re: SECTION 217B LANDOWNER SUBMISSION**

Dear Sir or Madam,

The Board's letter dated 17<sup>th</sup> June 2024 in respect of the above refers. We have been instructed by **Bastille Realty Limited, 8 The Mall, Lucan, Co. Dublin, K78 R8N2** (hereinafter referred to as "Bastille Realty" or "our client") owner of No. 2, Donnybrook Road, Dublin 4 to make a submission in response to the submission of the National Transport Authority dated 24<sup>th</sup> May 2024.

Having reviewed the NTA response, which contains a number of errors of fact and fails to directly address a number of issues raised in our client's initial submission on the proposed scheme, our client has instructed us to repeat their submission of the 9<sup>th</sup> October 2023 as part of this response. Accordingly, this submission is in two parts; part one addresses the NTA response and part two is a repeat of the initial submission. There is nothing in the NTA response that provides any site-specific justification or necessity to include our client's land at No. 2 Donnybrook Road for the Bray to Dublin Bus Scheme. The Board is therefore invited to confirm the proposed scheme with a modification that excludes our client's land at No. 2 Donnybrook Road.

Please acknowledge receipt of this submission and direct all future correspondence to this office.

Regards,



**Raymond O'Malley**  
Kieran O'Malley & Co. Ltd.

ROM: rom

## ***PART ONE: Submission on NTA Response dated 24<sup>th</sup> May 2024***

For ease of reference, our client's response will follow the numbering and headings used by the NTA. It remains our client's position that the proposed bus scheme can be implemented without our client's land and that the NTA has failed to provide a single site-specific reason to include Bastille Realty's land. The NTA hasn't considered any alternatives to avoid needing our client's land and it has not provided any direct response to the easily implementable alternative that we have recommended.

### ***3.1.3.1 Justification for CPO***

The NTA response does not provide a site-specific justification for the inclusion of part of our client's land within the proposed scheme and CPO. Instead it repeats a generic defence of the scheme such as "*land acquisition is required to deliver what has been determined to be the most appropriate design configuration that meets these objectives*" and all areas included in the CPO "*only included where deemed absolutely necessary*". There is no bus lane, cycle lane, road widening or other necessary infrastructure proposed for our client's land. The scheme indicates one bicycle stand that could easily be provided elsewhere at Donnybrook Road or omitted entirely based on the over concentration of bicycle stands in Donnybrook.

When supposedly addressing our client's submission under this heading, the NTA refers to figure 3.9 stating it "*shows the proposed cross section at No. 2 Donnybrook Road.*" That statement is an error of fact. If the Board zooms in on figure 3.9, it will confirm that the cross section relates to Donnybrook Road between the rugby ground and Circle K e.g. it includes an existing tree where there is none at No. 2 and it does not show the proposed bike racks/stands at No. 2. Figure 3.9 shows the wrong location with the wrong detail, which is a common response to our client's objection to the proposed scheme works at No. 2.

There is no cross section of the proposed scheme at No. 2 Donnybrook Road. The overall width of the proposed scheme at No. 2 totals c. 22.5 metres<sup>1</sup>, which is significantly narrower than the c. 34.6 metres building to building separation between No. 2 and Lloyd's Pharmacy on the opposite side of Donnybrook Road. Evening allowing for the echelon parking, there is significant excess road width at this location to accommodate the bus scheme without any necessity to unjustly take land from our client.

Additional justification for grabbing our client's land is then set out by reference to Reid v Industrial Development Authority (IDA). It is not accepted that our client's land is required for the purpose of providing transport infrastructure because the provision of cycling parking can be easily provided without the necessity to include our client's land. It therefore must follow that the lands to be acquired from Bastille Realty are NOT the minimum required. On the contrary, they are additional lands being grabbed by the acquiring authority under the guise of being necessary for the proposed scheme. It is evident that the proposed scheme can and should proceed without any of our client's land.

Finally, there is a cursory reference to reasonable alternatives in the context of our client's submission. There are no alternatives, reasonable or otherwise in the EIAR in respect of the lands being acquired by our client and nor are there any in sections 3.1.4.11 or 3.1.3.3 of the NTA response. As set out in the Reid v IDA case, the land to be acquired should be the minimum possible required to advance the statutory process. The

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<sup>1</sup> This is made up of 2 x cycle lane (2.0 m), 2 x bus lane (3.0 m), 2 x traffic lane (3.0 m), 2 x footpath (2.0 m), and parallel parking (2.5 m). The echelon parking is being retained, so it is excluded from the width of the scheme.

proposed acquisition of part of our client's land patently fails this test and there is nothing advanced in the NTA's response to suggest otherwise. It is our position and the Board is invited to agree that the NTA's position is fundamentally incorrect and contrary to the principles set out in Reid v IDA. The proposed scheme will not in any way be affected by omitting our client's land from it. If it is required to continue with the proposed over-provision of bicycle parking at Donnybrook, the proposed stands at No. 2 Donnybrook Road can be provided in front of No. 4 Donnybrook Road.

### 3.1.3.3 Loss of Parking, Cycle Parking and Alternate Design

#### **Loss of Parking**

Again, any assessment of the proposed scheme on our client's property has been set out in terms of the overall predicted impact at Donnybrook. As a result, there is a failure of the NTA to simply admit that the proposed impact on our client's private off-street car parking would be the permanent loss of all 4 no. private car parking spaces and the future development potential of the property would be severely compromised. It is disingenuous for the NTA to claim, *"where parking is removed, the impact varies between negligible and moderate"*. There will be a negative, profound and long-term impact on car parking for our client and we expect the Board to recognise that and not the diluted impact that is being touted by the NTA.

It would appear that the NTA has prioritised the retention of echelon parking on the opposite side of Donnybrook Road at the expense of our client's private off-street parking and the adjoining public spaces in front of Nos. 4 - 12 Donnybrook Road. There has been no consideration of any alternative layout that would exclude our client's land from the scheme. For example, replacing the echelon parking with parallel on street parking would enable the alignment of the bus scheme to be moved away from Nos. 2 - 12 Donnybrook Road thus leaving all that existing car parking unchanged. This car parking would be accessed across the proposed cycle lane consistent with the layout proposed at Caff  Nero.

The final sentence of this section confirms the assessment of the number of car parking spaces at our client's property was based on a standard parking bay width. The area of land to be acquired is 57.4 sq.m., with a depth of c. 5.4 metres, so there is sufficient room for 4 no. parking spaces that use this area.

The NTA's inability to even note that four cars park on the land to be acquired suggests a blinkered and possibly biased approach to establishing the true baseline data in respect of our client's property. The EIAR is meant to be an objective assessment of the potential impacts on the environment and not a promotional document supporting the proposed development.

#### **Cycle Parking**

The NTA response under this heading is one of the reasons we felt it necessary to repeat our initial submission to your office in this response. Frankly, what's stated under this heading amounts to nothing, which is deeply concerning for our client. We carefully considered what the proposed plans showed in respect of cycling parking, which are very limited, inconsistent, and conflicting. The NTA could have provided much needed clarity for our client and other affected landowners including Drg. No. DR-LL-9001, which perhaps the NTA also can't find, but instead it responds with references to sections in the EIAR that do not address the issues raised by our client.

#### **Alternate Design at No. 2 Donnybrook Road**

This section does not contain a response to directly counter our alternative proposal. It is merely a drawn-out description of what's proposed in the bus scheme as opposed to any planning, design, or environmental justification not to pursue the alternative offered by our client. At present, our client has 4 no. off street car parking spaces, which the NTA erroneously and continuously describe as on-street parking. It is our client's objective to retain these off street car parking spaces, which can be achieved without any change to the proposed scheme.

The NTA appears to misunderstand why we referenced the proposal at Caffé Nero, which was to show that elsewhere in Donnybrook, the proposed bus scheme included motorists traversing a c. 17.5 metres length of the bicycle lane to access and egress perpendicular off-street parking. Save the different number of car parking spaces, what our client is requesting is retained at No. 2 Donnybrook Road is comparable with the retained car parking at Caffé Nero albeit one is for public parking and one is on private land. Maintaining our client's off-street car parking at No. 2 Donnybrook Road won't require any alteration to the scheme layout.

Our client is not requesting the abolition of the proposed parallel car parking in front of Nos. 4-12 Donnybrook Road or the proposed public realm. It's submission highlights the abject failure of the EIAR to consider any alternatives in respect of No. 2 Donnybrook Road, which the Board is reminded is the only property to be acquired for the 400 metres stretch of Donnybrook Road from No. 114 to the rugby grounds. Omitting our client's land won't affect the NTA's ability to provide the proposed urban realm area. Our client's car parking and the new urban realm can both be facilitated, which is a fact that the NTA isn't prepared to admit. We trust the Board will accept that both can be accommodated and our client's land can thus be excluded.

#### 3.1.4.1 Constitutional Requirements of CPO

The NTA's response fails to address the constitutional requirements in the context of the proposed acquisition of our client's land. A simple and clear measure to avoid the likely significant adverse effect on that land has been identified in our initial submission to the Board, which is repeated above, but it continues to be ignored by the NTA. At no point in the voluminous documentation submitted with the application or in the NTA's response have they identified an irrefutable and unavoidable necessity to acquire our client's land. This is an unjustified land grab by the NTA that can and should be avoided by omitting our client's land.

#### 3.1.4.2 Proposed Trees

Instead of merely accepting the trees shown in photomontage view 24b are different to those shown on the proposed landscape plans and correcting the error, the NTA's response is unnecessarily defensive. The photomontages are hugely significant in portraying the proposed scheme to the public especially when it is easy to be swamped by the voluminous paperwork with this proposal. It is not good enough for the photomontages to be passed off as "interpretations" of design; they must be as accurate as possible and where difficulties are encountered in providing accurate images, the EIAR should highlight them.

Aside from the misleading "interpretations" in the photomontage view 24b, the NTA's response fails to address the inappropriate species identified for this urban realm area and attempts to deflect from what's proposed by stating the "*proposed tree species, sizes and spacings are indicative*". This is consistent with the



NTA's dismissive attitude to our client's legitimate concerns for No. 2 Donnybrook Road and the adjoining area. More clarity than "indicative" proposals should be provided especially when the proposed acquisition of our client's land is at stake.

Finally, the Board should note that Figure 3.19 of the NTA's reply (at page 57) re-issues the same photomontage of the Proposed Scheme which fails to show any bike rack located outside No. 2 Donnybrook Road. Despite its claims on page 57 that *"every effort has been made during the compilation and review of the photomontages to ensure that they are an accurate reflection of the proposals at the locations shown"*, the NTA has merely repeated its previous mistake. For ease of reference for the Board, the following image is an extract from page 57 of the NTA response without any proposed bike stands:



**Figure 3.19: Extract from Photomontage View 24b – Proposed**

**Source: Page 57 of NTA Response dated May 2024**

The Board is again requested to confirm the proposed scheme with a modification that excludes our client's land at No. 2 Donnybrook Road.

#### 3.1.4.6 Lack of Consultation with Local Residents

It is stated on page 62 that *"It was also important that at the start of the non-statutory consultation that considerable time and resources were dedicated by the BusConnects Infrastructure team to initiate contact with potential impacted properties. Each of the potentially impacted property owners were offered the opportunity to meet with members of the BusConnects Infrastructure team on a one-to-one basis which meant a significant amount of resources had to be dedicated to this process."* Our client informs us that the NTA did not initiate contact with it nor was it given the opportunity to meet on a one-to-one basis, as claimed.

Their experience of zero consultation contrasts sharply with that afforded to Circle K where in section 3.1.4.3 it states *"The NTA acknowledges the close liaison with Circle K that has been in place during the planning and design stage of the Proposed Scheme. There have been several communications with Circle K, Donnybrook (emails/ phone calls/ MS Teams meetings) with regards to the impact to the Circle K at Donnybrook."* As the only landowner identified for the acquisition of land at Nos. 2 - 12 Donnybrook Road, our client should have been subject to similar close liaison as opposed to being blanked by the BusConnects Infrastructure team. Notwithstanding that missed opportunity, it remains within the Board's remit to approve the bus scheme without including our client's land.

#### 3.1.4.10 Noise

In this section of the NTA's response, it repeats the following proposed working hours:

*"It is envisaged that generally construction working hours will be between 07:00hrs and 23:00hrs on weekdays, and between 08:00hrs and 16.30hrs on Saturdays. Night-time and Sunday working will be required during certain periods to facilitate street works that cannot be undertaken under daytime / evening time conditions."*

These working hours should not be approved at any location along the proposed route. They would directly affect the amenity of many residential and commercial properties along the route including at No. 2 Donnybrook Road. Any approval of this scheme should limit working hours to 7 am to 6 pm on weekdays, and between 8 am and 2 pm on Saturdays in the interest of residential amenity.



## **PART TWO: 9<sup>th</sup> October 2023 Submission**

We have been instructed by **Bastille Realty Limited, 8 The Mall, Lucan, Co. Dublin, K78 R8N2** (hereinafter referred to as “Bastille Realty” or “our client”) owner of No. 2, Donnybrook Road, Dublin 4 to make a submission in respect of an application for the approval of what appears to be designated as a road scheme under Section 51 of the Roads Act 1993 (as amended). Our client owns No. 2 Donnybrook Road, Dublin 4, D04 NN50, which is a three storey office building with 4 no. car parking spaces at the front of the property. It is proposed to compulsory purchase part of our client’s property<sup>2</sup> thus no fee is required for this submission.

The proposed scheme is entitled “The Bray to City Centre Core Bus Corridor Scheme” and has an overall length of c. 18.5 km and in addition, the section of Stonebridge Road included in the design measures c. 200m. The proposed scheme is routed along R138 and commences at the junction of Leeson Street Lower and Earlsfort Terrace at St. Stephen’s Green. It runs along Leeson Street Lower and Upper, Sussex Road, and then continues along Morehampton Road and Donnybrook Road, through Donnybrook Village and on to the Stillorgan Road, serving the UCD Interchange via the Stillorgan Road Overbridge at Belfield.

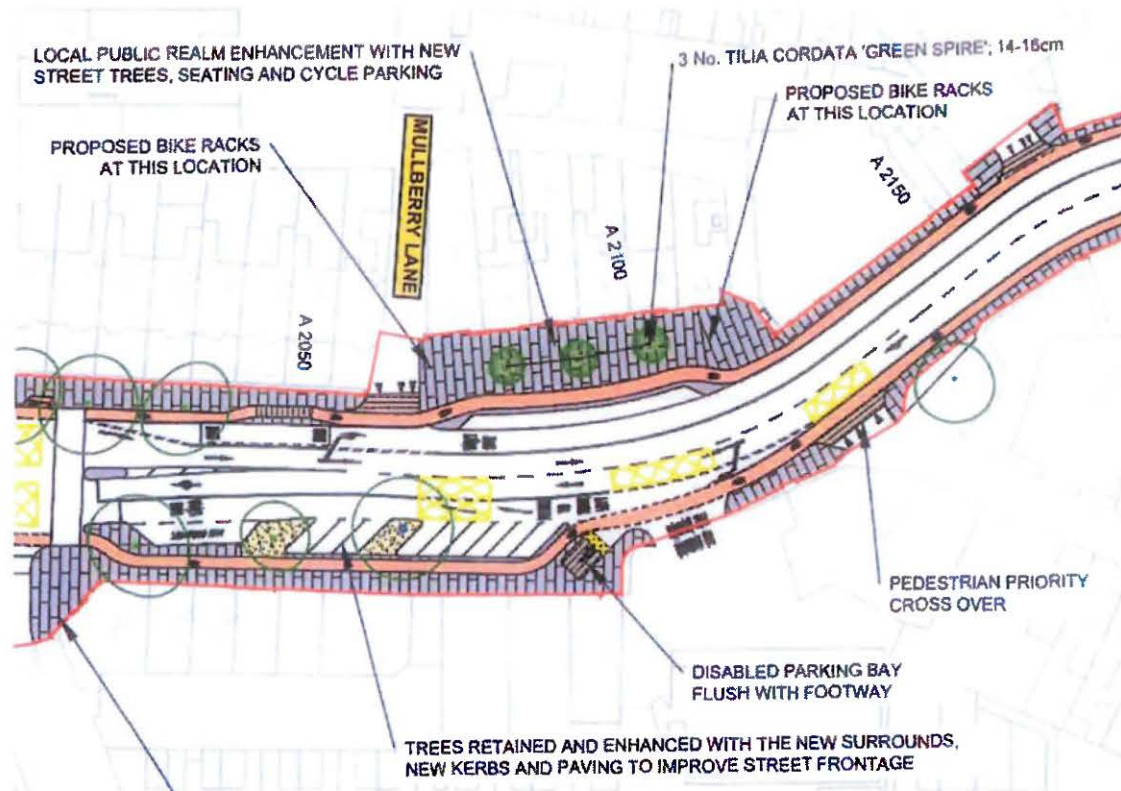
The route then continues on the Stillorgan Road (N11), which carries on to the Bray Road to Loughlinstown Roundabout. From Loughlinstown Roundabout it runs along the Dublin Road (R837) to St. Anne’s Church and then south through Shankill village along the R119. It then passes through Wilford Junction and along the Dublin Road until it terminates on Castle Street in Bray, on the north side of the River Dargle crossing. The application is accompanied by an Environmental Impact Assessment Report (“EIAR”), Appropriate Assessment Report (AA), and Natura Impact Statement (NIS) all prepared by Jacobs, ARUP and Systra.

The part of the proposed scheme that concerns our client and to which they object to is the inclusion of part of their land at No. 2 Donnybrook Road to form part of what’s described as “local public realm enhancement with new street trees, seating and cycle parking” in front of Nos. 2 - 12 Donnybrook Road. As proposed, the scheme would result in the permanent loss of all 4 no. car parking spaces at No. 2 Donnybrook Road. Having regard to the emergence of several substantial developments that are under construction in Donnybrook including **Plan No. 3301/20** (a mixed-use building of part 3 to part 7 storeys in height, above basement level at the former Kiely’s Public House), **Plan No. 3513/20** (an 8-storey mixed-use development at 25-27 Donnybrook Road), and **ABP Ref. TA29S.307267** (a residential development of 148 no. apartments rising in height from 3 to 12 storeys over basement), the loss of land would also have a significant adverse impact on the future potential of No. 2 Donnybrook Road.

The following is an extract of the Local Public Realm Enhancement from Drg. No.: BCIDB-JAC-ENV\_LA - 0013\_XX\_00 -DR-LL -0007 Rev M01: Bray To City Centre Core Bus Corridor Scheme Landscaping Design:

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<sup>2</sup> A separate objection to the proposed CPO, is also being filed to An Bord Pleanála.



This is the most information that we can find in respect of the local public realm enhancement at Donnybrook Road. From our review of the EIAR and accompanying documents, we have been unable to find any detailed drawing of the local public realm enhancement and specifically, no further drawing or information about the proposed bike racks that would be positioned on our client's land. There is a singular reference to Bike Racks in Chapter 04 Proposed Scheme Description in the EIAR in section 4.6.3 Bicycle Provision where it states "Bike racks will generally be provided, where practicable, at Island Bus Stops and key additional locations as noted in the Landscaping General Arrangement drawings (BCIDB-JAC-ENV\_LA-0013\_XX\_00-DR-LL-9001) in Volume 3 of this EIAR".

There is no Drg. No. DR-LL-9001 in Volume 3 of the EIAR and critically, there is no detailed drawing of the proposed bike racks. In other words, we have no idea what is being proposed on our client's land. Further, the EIAR does not list the location of the proposed bike racks even in Chapter 06 Traffic and Transport which lists existing Sheffield Stands within the red line scheme boundary and close to the proposal. Bike racks or stands are also not mentioned in the statutory site and newspaper notices. The Board is referred to following extract from Photomontage 24b, Figure 17.2 of Appendix 17 of the Local Public Realm Enhancement at Donnybrook that does not show the proposed bike racks in front of Nos. 2 or 12 Donnybrook Road:





Is there really a proposal or requirement for bike racks at No. 2 Donnybrook Road or has the National Transport Authority (NTA) merely shown them at that location as a means to pursue an otherwise unjust acquisition of part of our client's land? The total lack of detail in respect of the proposed bike racks undermines the basis of the EIAR and it provides a fundamental and insurmountable difficulty for our client and the Board to assess the necessity and justification for them on our client's land and as part of a local public realm enhancement at Donnybrook Road.

Photomontage 24b is also misleading in respect of the proposed trees at this location. 3 no. Tilla Cordata are proposed as per the Landscape Design drawings with Chapter 04 of the EIAR. This species grows to between 20 and 40 metres in height with a trunk up to 1 metre in diameter, so they are misrepresented in the photomontage. Also, they are entirely inappropriate at this location and would result in a loss of passive solar gain, they would overshadow Nos. 2 – 12 Donnybrook Road, and would be visually dominant at the local public realm and Nos. 2 – 12 Donnybrook Road to the detriment of all the occupiers.

Set against the information vacuum about what's actually being proposed at Donnybrook Road, it is submitted that the EIAR fails to adequately consider all potential impacts on our client's property from the proposed scheme through a combination of neglect, misinformation, conflicting information, under estimating the magnitude of any impact, and a failure to consider mitigation measures or alternatives including the omission of our client's land from the proposed scheme.

As already stated to the Board, there is a distinct lack of information and inconsistent information in the EIAR and other documents about what's proposed at No. 2 Donnybrook Road. There is a statutory obligation to include a comprehensive description of the proposal in the EIAR. This has not been done as the document has neglected to detail what is proposed at Nos. 2-12 Donnybrook Road with specific regard to the proposed bike racks. From a review of the landscape drawings for the entire scheme, 7 no. bike racks are identified of which 5 would be in Donnybrook. If one excludes or relocates the proposed bike racks in front of No. 2, there is no requirement to include our client's land to implement the proposed Bus Connects scheme.

The EIAR also includes misinformation with respect to the existing car parking in front of No. 2 Donnybrook Road. In section 6.3.2.5 Parking and Loading, our client's privately owned car parking spaces are under counted and they are not specifically identified instead they are grouped in the following misleading and imprecise summary of private car parking spaces within the boundary of the proposed scheme:

*"15 commercial (business) parking spaces these are located adjacent to R138 Donnybrook Road northbound carriageway between Eglinton Road and Brookvale Road and adjacent to R138 Donnybrook Road southbound carriageway between Mulberry Lane and The Crescent."*

It is only from the summary of the proposed impact on parking and loading in section 6.4.6.1.2.4 of the EIAR is it explained that the 15 no. commercial (business) parking spaces comprise of 6 at Fast Fix, 6 at First Stop, and three adjacent to R138 Donnybrook Road southbound carriageway between Mulberry Lane and The Crescent (MOLA Architecture). The three adjacent to the R138 Donnybrook Road southbound refer to our client's private parking but the Board should note that there's sufficient room for 4 no. cars to park on our client's property and not three.

This collective summary description of private car parking spaces that are up to 350 metres apart is misleading and an inappropriate method to assess the impact on our client's property and for that matter, at Fast Fix and First Stop. It results in the next and inevitable error in the EIAR which is the assessment of the impact on all 15 no. spaces as a collective entity as opposed to the impact on the respective properties. The following is the text from the final bullet point in section 6.4.6.1.2.4 of the EIAR:

*"There are currently 15 commercial (business) parking spaces located along R138 Donnybrook Road. Of the 15 spaces, 12 spaces are adjacent to the northbound carriageway between Eglinton Road and Brookvale Road (six at Fast Fit and six at First Stop) and three are adjacent to R138 Donnybrook Road southbound carriageway between Mulberry Lane and The Crescent (MOLA Architecture). It is proposed to remove a total of ten spaces (three spaces at MOLA Architecture, five spaces at Fast Fit and two spaces at First Stop). The impact of this loss is considered to be **Negative, Moderate and Long-term.**"*

If the proposed scheme is approved and constructed, our client will permanently lose all four private car parking spaces at No. 2 Donnybrook Road and the future development potential of the property would be adversely compromised. These are the only car parking spaces for that building and they form an essential part of the facilities associated with the office space at No. 2 Donnybrook Road. It is not relevant to our client what the individual or collective impact is at Fast Fit and or First Stop nor should it have any influence on the weighing of the impact significance at No. 2 Donnybrook Road.

It is submitted and the Board is invited to agree that the collective assessment of the loss of private car parking has resulted in a misleading and material underestimation of the true impact at our client's property. From section 6.2.4.5 Determining the Significance of Effects in the EIAR, the predicted impact of the loss of all 4 car parking spaces at No. 2 Donnybrook Road should be **Negative, Profound, and Long-Term** and not negative, moderate, and long-term. From Table 6.5 EIAR Impact Significances, profound is described as "*An effect which obliterates sensitive characteristics*", which is the appropriate classification for the permanent



loss of the only 4 car parking spaces at No. 2 Donnybrook Road. Any impact at Fast Fit and or First Stop should be ignored and discounted in the EIAR's assessment of the impact at No. 2 Donnybrook Road.

The next section of the EIAR to ignore our client's property is the assessment in Chapter 10 Population. Under the construction and operational phase assessments for Commercial Land Use and Accessibility in Chapter 10, there is no mention whatsoever of No. 2 Donnybrook Road (or MOLA, who are our client's tenant). This is an astonishing omission in the EIAR when our client's land is the only land to be subject of the CPO for the 400 metres stretch of the Proposed Scheme between 114 Morehampton Road and Donnybrook Rugby Ground as shown on the following CPO map:



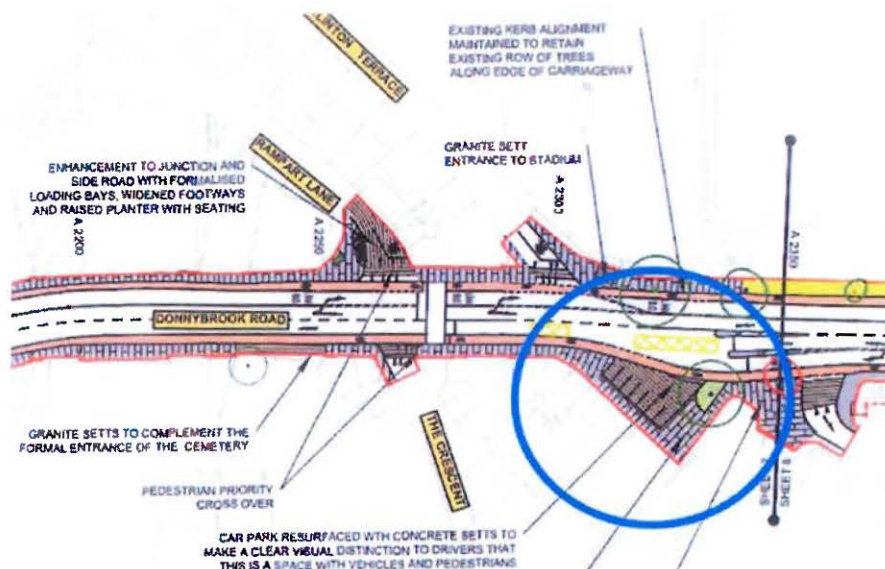
The summary text beneath Table 10.10: Land Take Impacts on Commercial Receptors during the Construction Phase includes three properties in Donnybrook, namely the Circle K Filling Station, First Stop and Fast Fit, which are expected to experience a Negative, Significant, Short-Term land take effect during the construction phase. The same construction phase **Negative, Significant, Short-Term** land take impact will arise at No. 2 Donnybrook Road but the EIAR has completely ignored it. Further and as would be expected because it was ignored at the construction phase, the operational phase impact also ignores the permanent loss of land at No. 2 Donnybrook Road. In fact, the summary text in section 10.4.4.2.2.1 does not actually address the impact of land take on commercial premises in Donnybrook instead it references "community areas".

In terms of accessibility in Chapter 10, the EIAR again fails to address the impact on No. 2 Donnybrook Road. In section 10.4.4.2.2.2 it concludes that *"The impact on access to commercial businesses along the Proposed Scheme for private vehicles is considered to be Positive, Moderate and Long-Term."* This statement is manifestly false with respect to our client's property because the proposal would result in the permanent loss of 4 no. private car parking spaces thus detrimentally affecting access to No. 2 for private vehicles.



There is a constitutional and legal onus on the NTA to make the case that adverse impacts are the minimum necessary and the Board must be satisfied that the NTA has included in the EIAR measures envisaged to avoid, prevent or reduce, and if possible, offset likely significant adverse effects on the environment. A review of Chapter 03 Consideration of Reasonable Alternatives will confirm that the NTA has not considered any alternatives to avoid, prevent or reduce the impact at No. 2 Donnybrook Road. This is reflective of the EIAR failure to properly identify and assess the potential impacts on the our client's property, in particular, the provision of 4 no. private car parking spaces associated with it and its future development potential.

The Board is requested to contrast the approach taken by the NTA to car parking outside Caffè Nero which is also in Donnybrook and about 230 metres from No. 2 Donnybrook Road. The following extract (with blue circle added) from Drg. No.: BCIDB-JAC-ENV\_LA-0013\_XX\_00-DR-LL-0007 Rev M01: Bray To City Centre Core Bus Corridor Scheme Landscaping Design confirms the proposal to retain most of the car parking while providing vehicular access across the proposed re-aligned cycle lane:



Applying this layout approach at Nos. 2-12 Donnybrook Road, which would be a reasonable alternative to what's proposed and consistent with the NTA's statutory obligations under the EIAR legislation, would enable the NTA and the Board to exclude our client's property from the proposed scheme without affecting the transport need for the scheme as set out in Chapter 02 of the EIAR.

There is a complete failure in the EIAR to properly address and consider the impact on our client's land. This failure starts with the abject lack of detail in respect of the proposed works at No. 2, the total absence of any detail of the proposed bike racks, the lack of any justification for bike racks at this location, inconsistent information about the bike racks, and zero consideration of any reasonable design alternatives including those that are proposed nearby in Donnybrook that would prevent the negative, profound and long-term impact on our client's property. It is compounded by a collective assessment of the loss of commercial car parking in Donnybrook and the total failure to include the land take and impact on accessibility in the EIAR. Our client's land is not required to facilitate the proposed scheme, which can be fully implemented without any loss of land at No. 2 Donnybrook Road.

As stated by Douglas Hyde B.L in the Irish Planning & Environmental Law Journal (Vol. 29, Number 3, page77);

*"There is a constitutional and legal onus on the applicant/developer (that is, the NTA, in the case of the BusConnects Dublin CBC scheme) to make the case that adverse impacts are the minimum necessary; the Board must be satisfied that the NTA has included in the EIAR an adequate description of the features of the project and/or measures envisaged in order to avoid, prevent or deduce and if possible offset likely significant adverse effects on the environment; the Board must satisfy itself that the NTA properly discharged the function of generation and assessment of an appropriate range of reasonable, viable alternatives."*

It is submitted that the NTA has failed in its constitutional and legal onus to make the case that adverse impacts are the minimum necessary on our client, who's land is not required for the proposed **Bus Connects** scheme. The EIAR is a fundamentally flawed with respect to its assessment of the impact on our client's property that would be a **negative, profound and long-term**. There is no justification or necessity to include our client's land in the local public realm enhancements at Donnybrook Road. The Board is therefore invited to confirm the proposed scheme with a modification that excludes our client's land at No. 2 Donnybrook Road from it. Finally, our client requests an oral hearing is held on the proposed scheme.