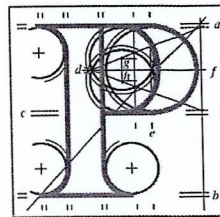


Landowner

Our Case Number: ABP-316272-23

Your Reference: Allison Dwyer



An
Bord
Pleanála

NOTE: separate submission
also on 316377
CPO case.

Reddy Charlton Solicitors
12 Fitzwilliam Place
Dublin 2
D02 VN56

Date: 18 August 2023

Re: Bus Connects Templeogue/Rathfarnham to City Centre Core Bus Corridor Scheme
Templeogue/Rathfarnham to City Centre

Dear Sir / Madam,

An Bord Pleanála has received your recent submission in relation to the above-mentioned proposed road development and will take it into consideration in its determination of the matter. Please accept this letter as a receipt for the fee of €50 that you have paid.

Please note that the proposed road development shall not be carried out unless the Board has approved it or approved it with modifications.

The Board has also received an application for confirmation of a compulsory purchase order which relates to this proposed road development. The Board has absolute discretion to hold an oral hearing in respect of any application before it, in accordance with section 218 of the Planning and Development Act 2000, as amended. Accordingly, the Board will inform you in due course on this matter. The Board shall also make a decision on both applications at the same time.

If you have any queries in relation to this matter please contact the undersigned officer of the Board at laps@pleanala.ie

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

Yours faithfully,

Eimear Reilly
Executive Officer
Direct Line: 01-8737184

HA02A

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



AN BORD PLEANÁLA

LDG- 065991-23

ABP- 316272-23

14 AUG 2023

Fee: € — Type: —

Time: 3.54 By: courier

The Secretary
An Bord Pleanála
Strategic Infrastructure Division
64 Marlborough Street
Dublin 1
D01 V902
BY DIRECT COURIER

Date 14 August 2023
Our Ref 89/0068000001

**Templeogue/Rathfarnham to City Centre Core Bus Corridor Scheme
Submission of Mrs Allison Dwyer, Glasnamullen, Bray, County Wicklow**

Dear Sirs

We act for Allison Dwyer of Glasnamullen, Bray, County Wicklow and we hereby make the following submission to An Bord Pleanála in relation to the Templeogue/Rathfarnham to City Centre Core Bus Corridor Scheme in addition to a submission made in respect of Section 51 of the Roads Act, 1993 (the "Roads Act").

Our client has received notices in respect of Section 51 of the Roads Act and has been served with a Notice which confirms that an application has been made to An Bord Pleanála for confirmation of a Compulsory Purchase Order ("CPO") in respect of our client's lands identified as the "Templeogue/Rathfarnham to City Centre Core Bus Corridor Scheme Compulsory Purchase Order 2023" and referred to our parallel submission in respect of our application made under Section 76 of the Housing Act 1966, which we understand is to be considered by the Board at the same time as the application for approval under Section 51 of the Roads Act.

As a matter of principle, it is submitted that while the applications can be considered together, the Board must address whether in fact to approve the scheme and that exercise must be undertaken first. It is only following a consideration of the scheme as approved that the impact upon our client's property for the purpose of Section 76 of the Housing Act 1966 can then be determined.

Where the Board approve the scheme under Section 51 of the Roads Act and confirm the CPO at the same time, it is our submission that any such determination would be invalid and *ultra vires* because the Board would have asked themselves the wrong question. As the Board would have to consider the effect of the proposed scheme and not the effect of the approved scheme on our client's property, the latter

of which test is the appropriate test for a compulsory acquisition, as it is only in the context of the scheme approved, that the issue of proportionality can be addressed.

It is in those circumstances that the submission made in respect of the approval sought under Section 51 of the Roads Act addresses the totality of the scheme whereas, a submission in respect of the CPO confirmation application relates specifically to our client's property.

The Proposed Scheme

The proposed scheme is described in the Environmental Impact Assessment Report (the "EIAR") as having an overall length of approximately 10km from end to end with additional offline upgrades and street treatments extending for an additional 3.5km and therefore, has a total length of 13.5km.

The proposed scheme entails the creation of a busway which is specified in the Roads Act 1993 as requiring particular treatment and as the approval scheme, requires approval under Section 51 and also requires approval under Section 49 of the Roads Act 1993. The developer, the National Transport Authority (the "NTA") have failed to properly consider the nature of the scheme particularly, having regard to the nature of the scheme which in essence comprises a busway and related infrastructure. Accordingly, the NTA have not adopted the approach specifically required in the Roads Act 1993. Therefore, in those circumstances the application is misconceived and contrary to the statutory scheme which is required to be followed, and as a consequence the Board have no jurisdiction to consider or determine the application.

The subsequent submissions made are without prejudice to our contention that the manner in which the application has been formulated is inconsistent with and contrary to the provisions of the Roads Act 1993.

Impact of the Proposed Scheme

While the approach adopted in the EIAR and in the plans and documentation lodged is fundamentally inconsistent with the approach that is required to be adopted in respect of such a scheme under the said Act, it is intended to engage with that particular scheme as formulated for the purposes of this submission but having regard to the matters set out in the preceding paragraph.

The essence of the scheme proposed is to create two additional lanes of traffic, a cycleway and a pedestrian footpath for a distance of approximately 14km through the City Centre. This is an extraordinary approach to a medieval city, with significant parts of this road scheme (as it is characterised by the NTA) extending into the medieval core and fundamentally changing the character of the city along the full extent of the route. Immediately, outside the medieval core is the 16th and 17th century remnants of the city and beyond that the 19th century city all of which is developed with a road system that is now to be completely changed. In effect, a new wider road system is to be developed which will increase the extent of the width of the road by approximately 50% creating a significant number of lanes and entirely changing the nature of the urban morphology and creating a city more akin to Los Angeles than a great European City which it is submitted that Dublin is.

Insofar as it is to be compared to a European City, it is reminiscent of the type of alterations that Haussmann created in Paris where wide boulevards were created with a consequent redevelopment of an architectural style, and here while the wide boulevards are the equivalent of the new busways which are to be created which will run in conjunction to the existing road system, none of the consequent urban redesign is contemplated. Instead, this entirely new road system is to be shoehorned into the existing medieval 17th/18th century Victorian cityscape and the effect on the morphology of the city will be truly devastating. The entire character of the city will be fundamentally changed and rather than being dominated by the built environment where the road system was subservient to that built environment, the road system now becomes the dominant feature and will completely undermine and alter the existing built environment.

The effect on the character of the city will be truly devastating. In urban design terms this is the single most dramatic change to the city since its inception and the relationship of the road to the built environment will be altered to the detriment of the city, and the existing fabric of the built environment will be fundamentally undermined and damaged beyond repair.

It is not just the urban fabric of the city that will be destroyed, an entire ecosystem and an urban design will be altered because at present, there is a relationship between the structures along the existing roads, the width of their gardens, the width of the road and there is an entire assemblage of street furniture including walls, railing, trees, footpaths, many of whom date from the 17th, 18th and particularly the 19th century which will be swept away. The effect on the urban design elements as a coherent architectural statement will be entirely destroyed.

In the 1960s there was a proposal to create the equivalent of what is now being proposed along Christchurch Hill and over the succeeding 50 years it has been universally reviled as being inappropriate and contrary to what is required of a European City. To include damage that has been caused by the small stretch of road that was implemented is there for all to see and the city in this location has never recovered and remains blighted by this over-engineered urban design project. That road extends for a couple of hundred metres but what is proposed here is almost 14km of a similar approach where one decimates the existing street furniture, front gardens, trees, footpaths and especially the relationship between the road, gardens and buildings which has existed for well over a hundred years in most cases and several hundred years over much of the road system where the scheme is now proposed.

It is simply incredible that this scheme should even be proposed and it is not insignificant that this scheme is a scheme not designed by City Planners or by Urban Design Specialist or by Conservation Architects – indeed it would appear that these professions have little or no input into the principles underlining the scheme, but rather it is dominated by Road Design Engineers and that for a great European City (and Dublin can be characterised as such a city) is not appropriate unless we have learned nothing from the mistakes of the 1950s and 60s.

This is the most fundamental environmental effect of this scheme but yet these impacts have not been addressed in the EIAR. The EIAR, contrary to the requirements of Council's Environmental Impact Assessment Directive 2011/92/EU (as amended) (the "EIA Directive") instead focuses on individual issues and even where architectural and cultural heritage is identified it does not look at the city in its totality but rather focuses on individual buildings and its effect on those. This is a function of the limited

vision of the specialists engaged who did not appear to understand the City in its totality and the importance of maintaining the scale, the urban grain and the various proportions which exist within the route and how such a scheme by doubling of the width of the road, would impact upon the city as a whole.

Indeed this does not appear to have been considered anywhere in any of the documentation lodged and in particular in the EIAR which fails to address these impacts. The absence of any consideration of the impacts in the city as a whole and an analysis of the various elements both individually and cumulatively on the city, given the extent of the scheme from Templeogue to Dame Street is not only extraordinary but fundamentally contrary to the requirements of the EIA Directive.

Cumulative Impacts

However, this busway is part of a system of busways that radiate from the city centre and include those to Lucan, to Castleknock/the Navan Road and to those other areas on the southside, all of which form part of an integrated scheme. While this individual scheme will have a devastating effect, the cumulative impact of all of these schemes which adopt a similar approach and will have the most profound effect and indeed a profound adverse effect on the city. The scheme will transform the city in a manner similar to the type of adverse impact it will have from Templeogue through to Dame Street.

In the 1990s and early 2000s it was understood that the design of the city was effectively going to be achieved through individual buildings and groups of buildings with new buildings reflecting the style, character and scale of existing buildings and the character of the city particularly that part created in the medieval/16th/17th century/the Victorian city, the Edwardian city and the early modern city would be protected with new developments relating to it so that its character could be retained. The morphology of the city would be dominated by the buildings therein and the relationship of open space, roads, footpaths would be consistent with the buildings.

However, there is now a dramatic change where the dominant feature across the totality of the city is a new system of thoroughfares, wide lanes of traffic all of which will comprise approximately of two lanes on each side and four lanes in total. Therefore, what will be created are dual carriageways running into the city centre, and in visual terms this is dramatic and contrary to every planning principle and every principle of urban design that has been accepted and continues to be accepted as the appropriate way in respect of which cities should be planned and designed.

This fundamentally breaches the requirements of the Dublin City Development Plan. The Dublin City Development Plan, if such a scheme were to be adopted, requires that these road schemes/busways be identified in the plan, be the subject matter of a Strategic Environment Assessment ("SEA") and be adopted by the elected members, as the appropriate way in which the city is to be designed. To override the provisions of the Dublin City Development Plan and to provide for these busways in the teeth of the Development Plan provisions would be to dominate the city by dual carriageway type roads, which is contrary to every planning principle and particularly a contravention of the Planning and Development Act, 2000. The Planning and Development Act, 2000 places the Development Plan as the primary planning document which is democratically made by the elected members and which not only

binds the Planning Authority but in fact binds the Board in terms of the outcome. As it is only in exceptional circumstances that the Board can depart from the Development Plan provisions.

Therefore, this scheme is fundamentally in contravention of the Dublin City Development Plan and the Board cannot approve such a scheme in those circumstances.

Public Transport

The nature of the scheme sought to be approved does not seek to prioritise public transport but to give it equal status with car based and cyclist based modes of transport. However, the effect of the decision that has been taken is to accommodate equally all modes of transport at the expense of the design of the city which will destroy the character of the city. If this issue been considered then it is submitted that the design that has been formulated would never have proceeded.

The appropriate decision, if it is decided to prioritise transport, is to allocate the existing road system to that mode of transport and subordinate car-based transport options to less attractive or more difficult routes. It is simply not possible to achieve the type of equality amongst the various transport modes without the utter destruction of the city. Accordingly, the overall design consideration that is critical to the formulation of any such design has been completely overlooked and therefore the scheme can simply not be approved.

The scheme the subject matter of this submission is one of twelve such schemes to be delivered which, as submitted above, will transform the city and render it to a road dominated city based on twelve separate dual carriageway type roads. In terms of their visual impact with wholesale destruction of trees, footpaths and the character and setting of buildings to the absolute detriment of the city. These twelve routes are referred to but without any integrated assessment or cumulative assessment of their various impacts is contrary to the EIA Directive.

While the scheme is predicated on a modal shift, the capacity for car based traffic is not disturbed but rather additional capacity is created for the bus system which will simply make those portions reserved for car based traffic more attractive and therefore will affect no change in a modal shift as any spare capacity on the road will be used up by additional car traffic and therefore the whole basis of the approach is fundamentally flawed.

There is no reference in any of the documentation to these twelve individual schemes as well as the city-wide cycling scheme and the improved pedestrian crossing facilities being the subject matter of a SEA. These twelve busways and the cycling infrastructure are required to be the subject matter of a SEA which would deal with the overall impacts of the schemes on the city centre. In addition, the specifics of each of these schemes in terms of its cumulative impacts must be identified and nowhere in the documentation are these things addressed adequately or at all. Equally, these schemes are not incorporated into the Dublin City Development Plan and if this scheme is adopted in the form that it is, then it renders the entire procedure provided for under the EIA Directive, the SEA Directive and the Dublin City Development Plan entirely meaningless and irrelevant.

Appropriate Assessment

These schemes are subject to the requirements of the Habitats Directive 92/43/EEC (the "Habitats Directive") and require an Appropriate Assessment ("AA"). The twelve schemes focus on the city centre and therefore all focus on Dublin Bay, which is both a Special Area of Conservation ("SPC") and Special Protection Area ("SPA") under the Birds Directive (Directive 79/409/EEC) as amended. The documentation lodged does not address in any appropriate manner the obligations under the Directive but in particular the in-combination effects of what appears to be a single scheme which is the subject matter of multiple applications all currently made at the same time. Each of these schemes must be addressed, in order to comply with the Habitats Directive, as it formed a part of the other twelve schemes and the integrated cycleway. The approach adopted where one seeks to subdivide them into their component parts without any adequate analysis of the cumulative impact, either for the purposes of the Habitats Directive or the purposes of the Environmental Impact Assessment Directive is fundamentally contrary to European Community law.

The proposed scheme is inconsistent with and contrary to the NTA's obligations under the Habitats Directive and the information provided is not such as to allow An Bord Pleanála to carry out an AA in the light of the inadequacy of the information submitted, and in particular the in-combination effects relative to the provisions of that Directive.

Chaotic Design Principles

It is somewhat ironic to note that this scheme appears to run almost parallel to the Luas Green Line and appears to serve the same catchment area as much of that scheme does. There would appear to be a significant duplication of the public transport facility that is being provided but yet this is not considered adequately or at all in the documentation lodged.

Furthermore, it is ironic that one of the fundamental criticisms of the Luas Light Transport Network was that until recently it did not connect to provide a cross-city network. This was a fundamental flaw in the overall design. In this case there are twelve schemes radiating into the city centre, all of which will disgorge their passengers at a point but where there will be no connection across the city and where connecting to other proposed Quality Bus Corridors and busways will be impossible. There is no coherent scheme formulated and the overall scheme is lacking in any attempt to integrate a system for a city that is recognised for the cross city trips, and no analysis has occurred as to how these connections can be accommodated.

Equally there is no consideration of the impact of the absence of integration for the passengers and indeed on the public and on the public spaces which will be required to accommodate persons using the system, nor the car based traffic which will have to navigate these passengers once the busway ends, and in those circumstances there is a complete absence of consideration of these types of issues, all of which result from a failure to provide an integrated scheme.

There are many issues which require to be addressed, but it is not possible to address these by way of written submission and indeed to identify all of the issues in terms of a document that is wholly inadequate is impossible. The Board has decided in respect of the Galway Busway to convene an oral

hearing and it is submitted that these schemes cannot be considered in the absence of an oral hearing but in the absence of a hearing which integrates consideration of all of these busways and for the Board not to ensure that an integrated assessment of all of these schemes would be to act contrary to both the EIA Directive, the SEA Directive, to the Habitats Directive and to the Water Framework Directive 2000/60/EC.

We are therefore requesting that the Board convene an oral hearing in which a range of issues will be required to be addressed including the extent to which the assessment of the various schemes were integrated one with the other, the urban design principles that were integrated into the scheme and how the character of the existing fabric of the city was a consideration.

Another item for consideration is the extent of the cost benefit analysis in the documentation lodged, if any, were carried out. Whereby the value of every property that has been acquired would be reduced by the order of approximately 50% and how the approach adopted in purely financial terms (which is an issue which is required to be addressed under the concept of material asset in the EIA) can be justified.

We would request that the Board would address this issue as a preliminary matter and would indicate at an early stage that it intends to hold an oral hearing and to allow adequate time for reports and other documentation to be prepared as well as information to be sought which will assist the Board in their consideration of this major development project which must be the most significant project for the City of Dublin in its history.

In those circumstances we await the Board's response to this request and to confirmation that an oral hearing will be granted in respect of which our client intends to fully participate and call planning, architectural and urban design expertise as well as traffic and transport expertise and environmental considerations to demonstrate that this scheme is not appropriate and cannot and should not be approved.

You might please confirm the position in respect of our preliminary application at your earliest convenience.

Yours faithfully


REDDY CHARLTON LLP