



An
Bord
Pleanála

Inspector's Report ABP-310669-21.

Development	Permission for glazed canopy fixed to front of building – Protected Structure.
Location	Bruxelles Bar, 7/8 Harry Street, Dublin 2, D02 KX36.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2617/21.
Applicant(s)	Harry Street Company Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Harry Street Company Ltd.
Observer(s)	None.
Date of Site Inspection	15/09/2021.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located within Dublin City Centre, off Grafton Street and on the northern side of Harry Street. The building wraps around Harry Street to the south and Swan Yard to the west and lies adjacent to the Westbury Hotel. The site is occupied by the protected structure that houses Bruxelles Bar. The building rises to three-storeys over basement building with dormer windows providing for a one-bedroom apartment in the roof space. The basement area of the building runs under the public street for a depth of approximately 5m.
- 1.2. The Bruxelles Bar building is identified as a protected structure in the Dublin City Council Development Plan 2016-2022, PS no. 3622, is described as a corner-sited attached five-bay three-storey with attic Gothic Revival public house, built c.1886, with stair turret to south-west corner. The appraisal of the NIAH describes the building as 'A flamboyant polychromatic exercise of brick and stone by J.J. O'Callaghan in the Flemish Gothic typifying the High Victorian period. Retaining all external features and fabric intact, it also has a fine interior. Sited in an unassuming side street, it is a significant addition to the architectural heritage of the south city centre.'
- 1.3. The subject application applies to the external façade of the protected structure which is occupied as a bar / restaurant at ground floor level, with services located at basement, first and second floor levels and with residential accommodation provided at attic (third floor) level. There are no internal works to the building proposed. There are currently two awnings in place across the front façade of the building which cover all existing 4 windows at ground floor level and entrance door.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for development as follows:
PROTECTED STRUCTURE: Permission for development that will consist of a glazed canopy (2838mm x 13050mm) fixed to the front of the building (a Protected Structure) at first floor level to overhang at a height 2580mm above the existing pavement seating on the pedestrian section of Harry Street. Building is located at junction of Harry Street (pedestrian section) and Swan Yard to end of Chatham Lane

(road). Main access from Harry Street., all at Bruxelles Bar, 7/8 Harry Street, Dublin 2, D02 KX36.

2.2. The application included a number of supporting documents including as follows;

- Plans, particulars and completed planning application form;
- Cover letter
- Planning Report, including Conservation Statement and Structural Appraisal Report.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following 2 reasons:

1. Having regard to provision of a permanent structure over the public street and its impact on maintenance requirements and potential impact on service vehicular access, it is considered that the development would adversely impact the operation of the street and permanently overhang the taken in charge public footway and road. The development would therefore be contrary to the proper planning and sustainable development of the area and would set an undesirable precedent for similar developments in the area.
2. The proposed permanent canopy fixed to the front façade of this protected structure would seriously injure its historic fabric, would be visually obtrusive and constitute an insensitive form of development. The proposal would seriously impact the architectural character and setting of this Protected Structure and, as a consequence, set an undesirable precedent for similar type development. The proposal would be contrary to the provisions of Policy CHC2(d) of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports and the City Development Plan policies and objectives.

The planning report acknowledges the value of the outdoor seating area to the commercial premises and the need to protect this area from the weather. However, it is noted that there is an existing retractable awning which provides protection from the weather. It is indicated that permission for the existing awning was permitted under PA ref: 4225/02. Given the concerns of the Roads and Conservation divisions, it recommended that permission be refused.

The Planning Officer recommends that permission be refused for the proposed development for two stated reasons. This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to compliance with conditions.

Transportation Planning Division: The report notes that the existing retractable awning currently in place is not shown on existing plans or elevation drawings. The existing awning covers an area which matches the 2.835 x 13.050m existing seating area – which is subject to the existing Street Furniture License. The report notes that the basement extends underneath the public roadway and that the full extent of Harry Street has been taken in charge by Dublin City Council following the ceding of private landing rights on Harry Street in 1990. It is noted that the existing extendable awning can be folded inwards when outdoor seating is not in operation and the available public space is increased if required.

The proposed permanent canopy structure covers the entire existing seating area on Harry Street. The underside of the canopy is 2.58m from the surface of the street and there is a

concern that high sided vehicles may impact the canopy, particularly if manoeuvring from Harry Street to Chatham Lane. It is considered that the proposed canopy will permanently overhang the taken in charge public footway/road and will set an undesirable precedent as well as adversely impacting the operation of the street by permanently removing a section of public space from Harry Street.

The provision of outdoor seating is subject to a separate statutory planning process where a Street Furniture Licence is required and therefore, external seating located on the public footpath should be omitted in the event of a grant of permission.

It is recommended that permission be refused.

Conservation Officer: Report notes that the existing building on the site is a protected structure RPS No. 3622 and is located within an area zoned Z5. The building has also been surveyed by the NIAH (NIAH Ref. 50920028) as being of Architectural, Artistic, Historical and Social interest and has been afforded a regional rating. The building is located within planning zone Z5, and is adjacent to, but not located within the Grafton Street Architectural Conservation Area.

The Conservation Officers report notes that the information submitted does not include an Architectural Heritage Impact Assessment of sufficient depth that would be expected for works to a PS to describe the impacts arising on the PS and surrounding PSs and historic streetscape. The building has an existing retractable awning which by virtue of its 'retractability' facilitates an almost full appreciation of the building façade when in a closed position. While it is acknowledged that the awning already conceals part of the stone band above the windows and the suspended branded flap at the edge of the awning somewhat conceals a view of the paired trefoil-headed overlight windows with leaded glazing, ultimately this element is

removable and reversible. Further issues raised with regard to the proposed bracket locations and the substantial steel frame.

The report concludes that the proposed permanent glass canopy as described would have a significantly adverse direct impact on the historic fabric arising from the 14no. fixings required into the stone band beneath the renowned sign and into the brick bays between the windows and end fixings at the key structural mullion positions, and would have a significant adverse visual impact, by virtue of its permanent, on the architectural character and presentation of the PS and would have a significant visual impact on the adjoining and adjacent protected structures and historic streetscapes of Harry Street and Grafton Street.

The Conservation Officer recommends that the proposed development be refused.

3.2.3. Prescribed Bodies

TII: The proposed development falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme – Luas Cross City (St. Stephen’s Green to Broombridge Line) under S.49 Planning and Development Act, as amended.

If the application is successful and not exempt – where the levy does not apply – a condition should include for the Section 49 Contribution Scheme Levy.

3.2.4. Third Party Submissions

None.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref 3128/98: Permission refused for fabric awnings to ground floor frontage (List 2 Building) for the following reason:

1. The proposed development, by reasons of its nature and extent, would obscure architectural features of the premises at no.7/8 Harry St. and would thereby seriously injure the architectural integrity of a list 2 building for which it is an objective to protect in the Dublin City Development Plan, 1991. The proposed development would therefore seriously conflict with the objectives as set out in sections 15.14.3 and 15.15.29 of the Development Plan and would not be consistent with the proper planning and development of the area.

PA ref 4225/02: Permission granted for the removal of existing decorative canopies over front entrance door and over 4 no. front windows and replace them with 5 no. awnings and refurbishment of 4no. existing windows at Bruxelles Bar (Protected Structure).

The Board will note that the PAs planning officers report indicates that the existing awnings on the building were permitted under this grant of planning permission. While permission was granted for the removal of the existing decorative canopies over the windows and front door – see photo attached – the permission sought to replace these canopies with 5 no. awnings – not two as apparently erected. I could not access any details of the awnings proposed under the application, or the response to the further information request. I note however, the conditions attached to the grant of permission which suggest that the proposed awning and awning box above the entrance door was to be omitted (condition 3), to avoid visual clutter. In addition, Condition 2 required revised drawings to be submitted for the written agreement of the Planning Authority:

‘illustrating the proposed awning box depth to be no more than that of the existing ope between the clerestory window and the window below. In other words, the depth of the awning box shall be no more than the depth of the existing stone transom, as shown on drawing no. PP04 submitted 21st May 2003, subsequently this shall reduce the length of the awning / canopy and steel support structures’,

to ensure the integration of the awning boxes without damaging the building, a protected structure of special character.

PA ref 4964/05: Permission granted for internal alterations to existing licensed premises at 7 - 8 Harry Street, Dublin 2 (a Protected Structure), comprising the relocation of the existing keg store at first floor level to the basement with a reduction in the area of the existing basement bar, and for the provision of a lounge bar and toilets at first floor, provision of stairway leading to the first floor, and for external alterations to provide windows in lieu of the existing louvre doors on the western elevation fronting onto Swan Yard.

PA ref 2466/06: Permission granted for change of use from storage to 1-bedroom apartment at third floor level over existing licensed premises with provision of new internal stairway and alterations to the roof at the rear at 7-8, Harry Street, Dublin 2, a Protected Structure.

5.0 Policy and Context

5.1. Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).

5.1.1. The proposed development involves works to a protected structure and as such, *'Architectural Heritage Protection, Guidelines for Planning Authorities'* are considered relevant. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000. Under Section 52(1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives:

- a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and
- b) for preserving the character of architectural conservation areas.

5.1.2. The guidelines provide guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures. The guidelines seek to encourage the sympathetic maintenance, adaption and re-use of buildings of architectural heritage.

5.1.3. Chapter 13 deals with Curtilage and Attendant Grounds and Section 13.5 relates to Development within the Curtilage of a Protected Structure and Section 13.8 of the

Guidelines relate to Other Development Affecting the Setting of a Protected Structure or an Architectural Conservation Area. The following sections are considered relevant:

- Section 13.8.1
- Section 13.8.2
- Section 13.8.3

5.2. National Inventory of Architectural Heritage

- 5.2.1. The National Inventory of Architectural Heritage (NIAH) is a unit within the Department of Environment, Heritage and Local Government engaged in compiling an evaluated record of the architectural heritage of Ireland. Where an NIAH survey of a particular area has been published, relevant planning authorities will be provided with information on structures within the area of that survey. The planning authority can assess the content of, and the evaluations in, an NIAH survey with a view to the inclusion of structures in the RPS according to the criteria outlined in these guidelines.
- 5.2.2. This area of Dublin City Centre is identified as an ACA and the supporting documents identify a large number of protected structures and structures listed on the NIAH. The proposed development before the Board relates to a development to a protected structure and Bruxelles us included in the NIAH as follows:
- Bruxelles, NIAH ref 50920028 – Regional Rating.

Description:

Corner-sited attached five-bay three-storey with attic Gothic Revival public house, built 1886, with stair turret to south-west corner. Steeply pitched natural slate roof with roll-moulded clay ridge tiles and set behind red brick parapet with limestone coping. Decorative gabled dormer windows to south pitch with decorative bargeboards and finials. Single-profiled red brick chimneystack to east. Red brick walls laid in Flemish bond with splayed limestone ashlar plinth course, continuous flush limestone ashlar impost and lintel courses, and projecting moulded limestone ashlar eaves cornice to base of parapet supported on decorative corbels. Claspings circular stair turret rises

from first floor to attic with corbelled out base having exposed limestone tread ends, forming curving base and supported on large corbels. Eaves cornice of south elevation extends across turret with circular attic storey surmounted by conical natural slate roof with lead finial. Deeply set square-headed window openings with bull-nose reveals, continuous moulded limestone sills and original bipartite timber casement windows with overlights. Shouldered window and door openings to ground floor formed in chamfered limestone ashlar surmounted by paired trefoil-headed overlights having leaded glazing, one-over-one timber sash windows and replacement glazed timber door. Occupying corner site at junction of Harry Street and Swan Yard.

Appraisal:

A flamboyant polychromatic exercise of brick and stone by J. J. O'Callaghan in the Flemish Gothic typifying the High Victorian period. Retaining all external features and fabric intact, it also has a fine interior. Sited in an unassuming side street, it is a significant addition to the architectural heritage of the south city centre.

5.3. Development Plan

- 5.3.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. Under the Plan, the subject site is zoned Z5 – City Centre, where it is the stated objective ‘consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’.
- 5.3.2. The primary aim of the land use zoning objective is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses which will interact with each other, help create a sense of community and sustain the vitality of the inner city both by day and night. Ideally this mix of uses should occur both vertically through the floors of the building as well as horizontally along the street frontage. While a general mix of uses (retail, commercial, residential etc.) will be desirable throughout the area.
- 5.3.3. The subject building is a Protected Structure. Chapter 11 of the CDP deals with Built Heritage and Culture and Section 11.1.5.4 deals with Architectural Conservation

Areas and Conservation Areas where it is stated that DCC will seek 'to ensure that development proposals within all Architectural Conservation Areas and Conservation Areas complement the character of the area, including the setting of protected structures, and comply with development standards'.

5.3.4. The following policies are relevant in the context of the proposed development site:

Policy CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

Policy CHC2: It is the policy of Dublin City Council to ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

- a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest
- b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances
- c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials
- d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure
- e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works
- f) Have regard to ecological considerations for example, protection of species such as bats.”

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take

opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting
2. Re-instatement of missing architectural detail or other important features
3. Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area
5. The repair and retention of shop- and pub-fronts of architectural interest.

Development will not:

1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area
2. Involve the loss of traditional, historic or important building forms, features, and detailing including roofscapes, shop-fronts, doors, windows and other decorative detail
3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors
4. Harm the setting of a Conservation Area
5. Constitute a visually obtrusive or dominant form.

Changes of use will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of Conservation Areas and their settings.

The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications and will promote compatible uses which ensure future long-term viability.

5.4. Scheme of Special Planning Control for Grafton Street and Environs 2019

- 5.4.1. The subject site lies on Harry Street, part of which is included in the Scheme of Special Planning Control boundary for Grafton Street. The Bruxelles building, however, is not included within the plan area and lies immediately adjacent to the boundary, which takes in just the eastern side of Harry Street. The vision of the scheme is to reinvigorate Grafton Street as the South City's most dynamic retail experience underpinned by a wide range of mainstream, independent and specialist retail and service outlets that attract both Dubliners and visitors to shop, sit and stroll, whilst re-establishing the area's rich historic charm and urban character.
- 5.4.2. It is noted that the extent of the Area of Special Planning Control is identical to the 'Grafton Street and Environs ACA. Part 3 of the scheme deals with Shopfronts and Advertisement Structures, recognising the Outdoor Advertising Strategy as contained in Appendix 19 of the Dublin City Development Plan and sets out development management measures for shopfront design and signage. Part 4 of the scheme deals with the built fabric and sets out the objectives to secure the retention of the historic fabric of the area and development management measures for works that would materially affect the character of the structure and area. Part 5 deals with the public realm and notes the works carried out since the scheme was adopted and to future proposed works. It is noted that the public realm works at Harry Street have been completed.

5.5. Public Realm Plan – Grafton Street Quarter (2014)

- 5.5.1. This plan seeks to take a holistic approach to coordinating the strategies for the entire area, noting that a good quality public realm is vital to an area's success because it generates pedestrian movement, it links places and events, creates activity and brings people into the area to shop, work and socialise.

5.6. Natural Heritage Designations

- 5.6.1. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(Site Code: 000210) which is located approximately 3.1km to the south east and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 3km to the north east of the site.

5.7. EIA Screening

- 5.7.1. Having regard to nature and scale of the development, which does not include any works to virgin ground, comprising works to a protected structure, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. This is a first-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The issues raised are summarised as follows:

With regard to Reason for Refusal 1:

- It is submitted that it is the intention of the applicant that the proposed canopy will not alter the current situation and cause any unnecessary difficulty for maintenance vehicles.
- Harry Street is a wide pedestrianised urban place and the seating outside Bruxelles is a permanent and attractive feature of the street. It has never caused difficulties for the maintenance of the area.
- The basement of the premises extends underneath the seating area to the exclusion of any public services.

With regard to Reason for Refusal 2:

- The application includes a structural appraisal report which confirms that the structure of the building has been radically altered to strengthen the upper floors by the previous owners. These alterations are capable of supporting the proposed canopy.
- While the lack of heritage details with the application is noted, the application provides an undertaking that all work will be carried out under the supervision of an accredited Conservation Architect. It is believed that the level of detail

required will be best carried out prior to the actual construction and erection of the proposed canopy.

- It is submitted that the proposed canopy will enhance the already attractive building.

The appeal includes a background to the appellants and the building, and notes the following with regard to the proposed development:

- The existing canopy obscures the historic architecture of the building.
- The proposed replacement with a fixed glass canopy, suspended over the seating area and is loosely based on the canopy of the Royal Ulster Hall in Belfast that is of the same period as Bruxelles.
- The canopy will be detailed to be reversible without any damage to the historic fabric of the building and the style of canopy will contribute to the character of the street and will be sensitive to the architecture of the building.
- The canopy will be manufactured and installed by market leaders in architectural salvage.
- Permission has been granted for an apartment at attic floor level and the development is in keeping with the zoning.
- The canopy will be positioned so as not to obscure the much-admired existing signage, which will remain in situ.

It is submitted that the canopy would be a great benefit to the commerciality of the premises and when done will enhance the already attractive ambience of the street.

The appeal includes a copy of the Structural Appraisal Report, prepared by OBA Consulting Engineers.

6.2. Planning Authority Response

None.

6.3. Observations

None.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. PAs Reasons for Refusal
3. Other Issues
4. Appropriate Assessment

7.1. Principle of the development

- 7.1.1. The proposed development seeks permission to carry out development to the front elevation of the building, Bruxelles, Protected Structure. The existing building has been occupied by a bar and restaurant for a number of years and the current proposal essentially seeks to replace the existing fabric awnings with a new glazed canopy which will extend across the essentially the full width of the front façade of the building with a length of 13.05m, above the existing 4 windows and entrance to the building. The proposed canopy will extend 2.838m from the façade and will overhang at a height of 2.58m, above the existing outdoor seating area. The fixings for the canopy will be installed just below the main signage at a height of 4.71m.
- 7.1.2. The subject site is located within the city centre and in an area zoned Z5, where it is the stated objective 'consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. The primary aim of the land use zoning objective is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses which will interact with each other, help create a sense of community and sustain the vitality of the inner city both by day and night. In terms of permissible uses, public houses and restaurants are permitted uses under

the Z5 zoning objective. As such, it is reasonable to consider that the proposed development is acceptable in principle on such zoned lands.

7.2. **Reasons for Refusal:**

The Planning Authority refused permission for two reasons as follows:

1. Having regard to provision of a permanent structure over the public street and its impact on maintenance requirements and potential impact on service vehicular access, it is considered that the development would adversely impact the operation of the street and permanently overhang the taken in charge public footway and road. The development would therefore be contrary to the proper planning and sustainable development of the area and would set an undesirable precedent for similar developments in the area.
2. The proposed permanent canopy fixed to the front façade of this protected structure would seriously injure its historic fabric, would be visually obtrusive and constitute an insensitive form of development. The proposal would seriously impact the architectural character and setting of this Protected Structure and, as a consequence, set an undesirable precedent for similar type development. The proposal would be contrary to the provisions of Policy CHC2(d) of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

Reason for Refusal No. 1:

- 7.2.1. The Transportation Planning Division of Dublin City Council raised a number of concerns regarding the proposed development, and in particular, the potential impact the permanent overhanging of the public footway and road by the glazed canopy. I note that the information submitted with the application and appeal indicates that the 'the seating outside of Bruxelles Licenced Premises is a permanent and attractive feature of Harry Street'. The submitted Structural Appraisal Report states that 'the canopy is to be located to the front of the building fixed to the Harry Street elevation to form a permanent outdoor weathered dining area currently serviced by a retractable awning.'

- 7.2.2. In this regard, I would note that the full extent of Harry Street has been taken in charge by Dublin City Council following the ceding of private landing rights on the

street in 1990. As such, it must be questioned, if a grant of planning permission for the static canopy proposed to permanently cover this area of the street would infer a permanent grant of planning permission for the use of this area of the public realm as part of the business? The necessity for the applying for a street furniture licence might be construed as being removed.

7.2.3. Certainly, it is implied by the applicant that this area of Harry Street is removed from the public space by reason of the existing use as an outdoor seating space associated with the public house and restaurant. In this regard, I would note the comments of the Dublin City Council Transportation Planning Division which states that the current retractable awning can be folded inwards when outdoor seating is not in operation and the availability of public space is increased if required.

7.2.4. I note the submission of the appellant in terms of the proposed construction of the canopy such that it will not alter the current situation or cause any difficulty for maintenance vehicles or maintenance of the area. I also note that the basement associated with the building extends under the public footpath / seating area to the exclusion of any services. I also note the examples included by the applicant / appellant with regard to existing canopies at the Olympia and Gaiety Theatres in Dublin, and the Royal Ulster Hall in Belfast. In this regard, I would note that none of the examples enclose or permanently remove access to the public realm / footpaths under the canopies.

7.2.5. In this regard, I am satisfied that the PAs Reason for Refusal no. 1 is sound and reasonable. A grant of planning permission in this instance, would result in an adverse impact on the operation of the public street, would set an undesirable precedent for similar type developments in the area and across Dublin City and would be contrary to the proper planning and sustainable development of the area.

Reason for Refusal No. 2:

7.2.6. In addition, the Board will note that the building is a protected structure and as such, further consideration of the proposal is required.

7.2.7. It is the stated policy of Dublin City Councils Development Plan, Policy CHC1 refers, to seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city. In addition, Policy CHC2 seeks to ensure that

the special interest of protected structures is protected. The Board will note that the subject building is a Protected Structure which lies immediately adjacent to an ACA and therefore, it is necessary to consider the impact of the proposed development on the subject building, as well as adjacent protected structures.

- 7.2.8. Policy CHC2 sets out a number of criteria for works to protected structures. The proposed development seeks to carry out works to the exterior of the building which are likely to impact on the historic fabric of the building. The Board will note the concerns of the Dublin City Conservation Officer in terms of the impact of the canopy on the historic fabric of the building as well as the visual impact arising to the protected structure and the ACA.
- 7.2.9. I would note that no Architectural Heritage Impact Assessment was submitted as part of the planning application other than a letter from ABA Architects to state that they have been appointed Conservation Architects to advise and supervise on the proposed erection of the canopy. I also note the submission of the appellant that the application includes an undertaking that all work will be carried out under the supervision of an accredited Conservation Architect. It is considered that the level of detail that will be required will be best carried out prior to the actual construction and erection of the proposed canopy.
- 7.2.10. In addition, I would note the matter of the previous grant of planning permission for the installation of awnings at this site, and I note the concerns of the Conservation Officer with regard to existing features which may not fully comply with conditions of the permission, PA ref: 4225/02 refers. I would note that matters of compliance are not within the remit of the Board.
- 7.2.11. Overall, I am not satisfied that the development adequately accords with the requirements of Policy CHC2 or CHC4 which seek to protect the special character of protected structures and Conservation Areas. I would further consider that the permanence of the proposed glazed canopy, as well as the fixings required to secure it to the building, would have a significant impact on the historic fabric of the protected structure, and would impact on the character and architectural features of the protected structure as well as other protected structures within the ACA. I conclude therefore, that the development would, if permitted, would negatively

impact the fabric, form and character of the protected structure and the historic streetscape of Harry Street and the wider Grafton Street ACA.

7.3. Other Issues

7.3.1. Development Contribution

The subject development is not liable to pay a S48 development contribution as it relates to works to a protected structure. I have raised a concern above regarding the potential implied increase in floor area / net additional commercial floor space as indicated by the applicant / appellant, which the Board may wish to consider further.

In terms of the S49 Luas Cross City Supplementary Development Contribution Scheme, section 11 of the scheme sets out the categories of development which will be exempted from the requirement to pay development contributions under the scheme. Works to protected structures are exempt and therefore, no contribution is payable in this instance.

7.3.2. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(Site Code: 000210) which is located approximately 3.1km to the south east and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 3km to the north east of the site. No concerns relating to AA were noted in any submission to the Planning Authority and I note that no works proposed relate to development of any virgin soil.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reasons.

9.0 Reasons and Considerations

1. Having regard to provision of a permanent structure over the public realm on Harry Street, the full extent of the street having been taken in charge by Dublin City Council, and its impact on maintenance requirements and potential impact on service vehicular access, it is considered that the development would adversely impact the operation of the public street and would permanently overhang the taken in charge public footway and road. The development would set an undesirable precedent for similar type developments in the area, and across Dublin City and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed permanent canopy fixed to the front façade of this protected structure would seriously injure its historic fabric, would be visually obtrusive and constitute an insensitive and inappropriate form of development within the historic streetscape of Harry Street and the wider Grafton Street Architectural Conservation Area. The proposal would seriously impact the architectural character and setting of the Protected Structure and would set an undesirable precedent for similar type development.

The proposal would, therefore, be contrary to the provisions of Policy CHC2 and Policy CHC4 of the Dublin City Development Plan 2016-2022 as they relate to Protected Structures and Architectural Conservation Areas and would be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
11th October 2021