



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314661-22

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<b>Development</b>	Section 254 street furniture licence for tables and chairs on the public footpath outside a cafe
<b>Location</b>	Lennox Terrace (adjacent to 31 Lennox building, 31 Lennox Street, Portobello, Dublin 8
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	SF656
<b>Applicant(s)</b>	Darren Costello
<b>Type of Application</b>	Section 254 Licence
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Darren Costello
<b>Observer(s)</b>	Majella O'Sullivan
<b>Date of Site Inspection</b>	30 <sup>th</sup> November 2023
<b>Inspector</b>	Joe Bonner

## 1.0 Site Location and Description

- 1.1. The subject site, consist of three separate areas located to the front (north) and side (west) of a café known as '31 Lennox' a Protected Structure, on the corner of Lennox Street and Lennox Terrace and directly south of Synge Street, c120m north of the Grand Canal and c210m northwest of Portobello Bridge.
- 1.2. 31 Lennox is a three-storey end of terrace building, set back 2.5 metres from the footpath along Lennox Street. There are no footpaths on Lennox Terrace and the road extends the full width of the street, which is a residential street. The café use is currently contained within the ground floor and external terrace area to the front and upstairs at first floor level.
- 1.3. The area immediately surrounding the site consists of two storey residential properties, with a row of five ground floor retail and commercial units located c35-65m to the west on the opposite side of Lennox Street.

## 2.0 Proposed Development

- 2.1. This is an application for a Section 254 Licence to place 19 circular tables and 5 mobile diner pods with a combined capacity for 58 persons, in three separate areas outside and adjacent to 31 Lennox, on both Lennox Street and Lennox Terrace.
- 2.2. The areas are described on the only submitted drawing as Areas A, B and C.
  - 'Area A' measuring 16.43sqm (5.3m x 3.1m) is located between the front building line and the public footpath, immediately in front of the café on Lennox Street. It would accommodate four tables and eight chairs.
  - 'Area B' measuring 12.12sqm (5.05m x 2.4m) is located on the opposite side of the public footpath to Area A, directly in front of the café and is currently used as on street public pay and display car parking. Area B would accommodate four low tables and four timber barrels, as well as sixteen chairs and four mobile planters on castors.
  - 'Area C' measuring 32.26sqm (14.18m x 2.275m) is located at the western side of the building, on Lennox Terrace, and would take up approximately half of the width of the lane. It would accommodate five mobile dining hubs on castors,

complete with integrated seating and tables, that could accommodate twenty people. Seven high tables and fourteen stools would also be provided in Area C.

- A plastic storage box located on Lennox Terrace is also shown on the drawings and forms part of the application.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. In a letter dated the 26th of August 2022, Dublin City Council issued a single page letter to the applicant, which refers to an Order of the Executive Manager, Office of City Recovery, Order No. O.C.R 37/22, which it states refused the application for the street furniture license on the single ground that:

- The amount of street furniture proposed in a Z1 residential zoning is considered excessive and would have a detrimental impact on the amenities of adjoining premises in relation to noise and general disturbance. It is also considered that this would have an impact on the access to the laneway, which may impede pedestrians due to the amount of street furniture proposed. There is concern that public use and access to Lennox Terrace is obstructed by the street furniture, and furthermore, it is noted that a minimum width of 3.5m is required for fire services, and the positioning of street furniture on Lennox Terrace would not facilitate this. Finally, this property is a Protected Structure, and it is considered that the amount of street furniture proposed would constitute visual clutter which would detract from the character and setting off this Protected Structure.

3.1.2. The Order of the Executive Manager does not form part of the appeal file.

#### **3.2. Planning Authority Reports**

3.2.1. Planning Report

3.2.2. The report of the Executive Planner dated the 31<sup>st</sup> of May 2022 sets out the matters that the planning authority should have regard to when considering applications for outdoor tables and chairs and summarised the issues set out a number of observations as follows:

- Street furniture is on Lennox Street and Lennox Terrace seven days a week blocking pathways, using parking spaces and destroying views of the Protected Structure.
- Noise and disruption along the road.
- Temporary COVID permits expired in March 2022.
- Furniture is stored on Lennox Terrace, and they understand that all furniture was to be removed from the street after 6:00pm, not left on the street all night.
- Applicant should remove all street furniture until the decision is made.

3.2.3. The appraisal states that:

- The pods, tables and chairs will more or less block the laneway to the side for passing pedestrians.
- They have serious concerns about the placement of screen planters, tables and chairs on the street and the resulting loss of off street parking.
- The amount of street furniture proposed would constitute visual clutter and would detract from the character and setting of the protected structure.

3.2.4. Photos show the mobile pods stored in the public parking spaces on Lennox Street and seating along the side of the building.

3.2.5. A split decision was recommended with a grant recommended for the four tables and eight chairs at the front of the building in Area A and a refusal for those proposed in Areas B and C as per drawing Dwg. 210122-PL-02A.

#### Other Technical Reports

3.2.6. Parking Enforcement Officer

- Does not support the use of pay and display spaces (P&D). There were complaints and objections when 31 Lennox occupied these spaces during the pandemic in an area where there is high demand for pay and display parking.

3.2.7. Dublin Fire Brigade

- In an e-mail dated the 7<sup>th</sup> of June 2022, the Executive Fire Prevention Officer stated that they had objections to certain elements of the seating, and highlighted those objections in yellow on a plan, which were:

- 1 The pods located to the side are not permitted as they are constructed of combustible materials, as stated in the certification submitted and this is unacceptable.
  - 2 No certification submitted for the artificial grass or the planters and the side planters in Area B should be removed, so as not to restrict exit from the area in case of emergency.
- No concern was expressed regarding the extent of the area proposed to be used for the placement of tables and chairs on Lennox Terrace (Area C).

### 3.2.8. Roads and Traffic Planning Division

The report, dated the 5<sup>th</sup> of August 2022 addresses the following:

- Area A is a private area so should be subject to a planning application rather than a Street Furniture Licence. They have no objection to seating in this area.
- Areas B and C are on the public roadway and laneway.
- Area B would require the removal of at least 2 on street parking bays on Lennox Street, which is a high demand parking area, and it is not considered appropriate to use public communal on street parking spaces for a private business.
- Policy MT14 of the 2016 Dublin City Development Plan refers to minimising the loss of on-street car parking, while recognising that some loss of spaces is required for, or in relation to sustainable transport provision, access to new developments, or public realm improvements.
- The street furniture in Area C occupies most of the width of the laneway and when busy has the potential to spill out onto the remainder of the laneway. A minimum width of 3.5m is required for fire services and the positioning of the street furniture on Lennox Terrace would not facilitate this.
- While the use of the public road space may have been acceptable during the pandemic, it is no longer considered appropriate.
- It was recommended that a licence be refused for Areas B and C and that the applicant be advised that a licence cannot be issued for Area A.

### 3.3. Prescribed Bodies

- None

### 3.4. Third Party Observations

None on the file although reference is made to them in the Planning Officer's report where they are summarised. (See paragraph 3.2.2. above).

## 4.0 Planning History

### 4.1. Application Site

4.1.1. There are 5 planning applications relating to the premises at 31 Lennox, which are:

- **P.A Reg. Ref. 2151/07** – Permission granted on the 13<sup>th</sup> of August 2007 for a change of use of existing ground floor office to a cafe with additional external signage (Protected Structure), demolition of existing shed and construction of a single storey extension to rear.
- **P.A Reg. Ref.3126/09** – Permission refused by Dublin City Council on the 17<sup>th</sup> of July 2009 for an extension of the business opening hours. The decision as appealed (PL29S.234508) but was declared invalid.
- **P.A Reg. Ref. 2302/10** – Permission refused on the 21<sup>st</sup> of April 2010 for an extension of the business opening hours. The refusal reason refers to the change in hours having a detrimental impact on the adjoining properties in terms of general disturbance and late night activity that would seriously injure the residential amenity of the adjoining residential properties.
- **ABP PL29S.239092 (P.A. Ref. 2397/11)** – Permission granted by the Board on the 27<sup>th</sup> of September 2011 for 'Extension to business opening hours of previous planning reg. ref: 2151/07'. A single condition was attached that stated:

The hours of operation shall be as follows: Monday to Friday, from 0800 hours to 1730 hours and on Saturday and Sunday, from 0900 hours to 1730 hours.

**Reason:** In the interest of clarity and to protect the residential amenities of the area.

- **P.A. Reg. Ref. 3420/14** – Retention permission granted on the 2<sup>nd</sup> of February 2015 for ‘modifications to a Protected Structure, consisting of 1. The relocation of the toilet at first floor level (non-original building fabric), 2. The partial removal of two internal walls and the removal of two doorways at first floor level (original building fabric), 3. Essential repairs to original shop front and paved area to the front of the property.

The application was accompanied by an Architectural Heritage Impact Report.

## 5.0 Policy Context

### 5.1. Legislation

- 5.1.1. This application has been made in accordance with Section 254 of the Planning and Development Act 2000 (as amended) and Article 201 of the Planning and Development Regulations 2001 (as amended) and the provisions of both apply, while Article 202 is also relevant.

### 5.2. Dublin City Development Plan 2022-2028

- 5.2.1. The relevant Development Plan is the Dublin City Development Plan 2022-2028, which came into effect on the 14<sup>th</sup> of December 2022. The site is zoned 'Z1 – Sustainable Residential Neighbourhoods', the land use zoning for which is 'to protect, provide and improve residential amenities'.
- 5.2.2. Policy CCUV32: Proposals for outdoor dining/trading from premises extending into the street will be supported where they would not harm local amenity or compromise pedestrian movement, accessibility needs or traffic conditions.
- 5.2.3. Section 15.17.4 'Outdoor Seating and Street Furniture' states that certain elements of street furniture, can lead to problems of visual clutter and to obstruction of public footpaths. It also states that all street furniture should be located to prevent any obstruction or clutter of all footpaths and paved areas.

In considering applications for outdoor furniture, the planning authority shall have regard to the following:

- Size and location of the facility.

- Concentration of existing street furniture in the area.
- The visual impact of the structure, particularly in relation to the colour, nature and extent of advertising on all ancillary screens.
- Impact on the character of the streetscape.
- The effects on the amenities of adjoining premises, particularly in relation to hours of operation, noise and general disturbance.
- Impact on access and visibility.

5.2.4. Section 15.14.7.2 'Restaurants/Cafes' states that fixtures and fittings associated with outdoor dining should be fully removable outside operating hours and should not impede access or create undue clutter or trip hazard in the streetscape.

5.2.5. The following policy is relevant to the proposal to replace parking spaces in Area B:

- SMT25 On-Street Parking To manage on-street car parking to serve the needs of the city alongside the needs of residents, visitors, businesses, kerbside activity and accessible parking requirements, and to facilitate the re-organisation and loss of spaces to serve sustainable development targets such as in relation to, sustainable transport provision, greening initiatives, sustainable urban drainage, access to new developments, or public realm improvements.

5.2.6. 31 Lennox Street is described as a 'house' in the Record of Protected Structures as RPS reference 4821 in Volume 4 of the Development Plan.

5.2.7. Section 15.15.2.3 'Protected Structures' provides that:

- The inclusion of a structure in the Record of Protected Structures does not prevent a change of use of the structure, and/or development of, and/or extension to the structure, provided that the impact of any proposed development does not adversely affect the character of the Protected Structure and its setting.

### 5.3. NIAH

5.3.1. 31 Lennox is assigned a regional rating, of Architectural. Artistic and Social interest in the National Inventory of Architectural Heritage (NIAH). The building is described as a corner-sited attached two-bay three-storey former house and shop, built c. 1870, with shopfront to front (north) elevation. Now in use as café. Brown brick



walling, laid in Flemish bond, to front, rendered to ground floor; yellow brick walling, laid in English garden wall bond, to side (east and west) and rear elevations.

5.3.2. It also describes other decorative elements on the front and rear elevations.

5.3.3. 31 Lennox is appraised as:

- A noteworthy purpose-built commercial premises with residential accommodation set out over the upper floors, this building terminates the view at the south end of Synge Street. It retains a fine late nineteenth-century timber shopfront, with skilled artisanship evident in the execution of the doorcases and fascia. Unusually, this building lacks openings to its long west wall.

5.3.4. **DMURS**

5.3.5. The Department of Transport Circular RW 6/2013 states that the DMURS is mandatory when providing new or modifying existing urban roads and streets within the 60 km/h urban speed limit zone, except for motorways and in exceptional circumstances, on certain urban roads and streets where the written consent of the relevant approving authority has been obtained.

5.4. **Natural Heritage Designations**

5.4.1. The site is not located within or adjacent to any Natura 2000 sites.

5.5. **EIA Screening**

5.5.1. The proposed development is not of a type that constitutes an EIA project and environmental impact assessment is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. A first party appeal has been received from the applicant, Mr Darren Costello, who is the owner and operator of the café at 31 Lennox. The appeal contains:

- A cover letter setting out the grounds of appeal that separates the refusal reason into five issues and responds to each in turn.

- A signed petition of support from neighbours, customers, members of a local residents association and tidy towns committee members, letters of support from local politicians, one neighbour and a letter from the Ombudsman.

## 6.2. Applicant's Cover Letter

### 6.2.1. Issue 1 - General disturbance.

#### Applicant's Response

- The maximum amount of furniture proposed would only be used for c.8 hours in any one week. Following consultations with neighbours, furniture is not used in the laneway Monday to Wednesday, except where there's a booking with a specific request for that area, 50% of furniture is used on Thursdays and Fridays and 100% is used on the weekends, weather permitting, with less in winter.
- Furniture storage is performed at specific times and conducted swiftly to ensure minimum disruption to the local community and the applicant has engaged with local residents and gathered significant feedback of what works best for all concerned. The proposed development is the result of those consultations.
- It was requested that Dublin City Council provides evidence what is deemed excessive and to outline what detrimental impact the street furniture would have.

### 6.2.2. Issue 2 - Noise pollution.

#### Applicant's Response

- Following consultations and agreements with neighbours, noise has been mitigated by using the outdoor furniture, during specific days and times only Thursday to Sunday. The furniture is set up swiftly after 9:00am and the last seating is no later than 4:00pm and stored again in the early evening to minimise any noise pollution.
- Noise reducing improvements have been made to included furniture upgrades using noise cancelling materials, risk assessed layouts, specific customer seating times, enhanced wheels with suspension, and the addition of wooden planters to surround the area and absorb noise.
- The applicants operate during daytime hours only, regularly check decibel levels, are an active member of the local Tidy Towns Committee, Residents Association

and Neighbourhood Watch and operate an open door policy to encourage neighbors to drop-in to discuss any issues that arise. The reduction of noise pollution is given priority.

6.2.3. Issue 3 - The street furniture may impede pedestrians and access to the laneway.

Applicant's Response

- Access to Lennox Terrace was confirmed to be adequate for access, with letters from Dublin City Council (DCC) and Dublin Fire Brigade (DFB) confirming same. The furniture is bespoke and constructed within the agreed parameters.
- A request for double yellow lines to be placed on the laneway was rejected by Dublin City Council and as a result all types of vehicles can and do park along the side of the building. The furniture is the same width as a standard car, so how can it be suggested by DCC that furniture takes up excessive space, but have no objection to random vehicles, some much larger than a typical car, parking in the area?
- An independent fire safety risk assessment was conducted by a chartered engineer/ fire safety expert who found the furniture layout and access were all within agreed parameters. It states that a letter to that effect is attached.
- Since the drawings were submitted, plans were rearranged that result in even less furniture in situ five out of seven days. Dublin City Council took no account of different table plans and layouts for various trading times.

6.2.4. Issue 4 - A minimum width of 3.5m is required for fire services, and the positioning of street furniture on Lennox Terrace would not facilitate this.

Applicant's Response

- Reference is made to the confirmations from Dublin Fire Brigade and Dublin City Council that they would have adequate space along Lennox Terrace in the event of an emergency, in the context of a letter to the applicant, from the Ombudsman.
- Having rejected the application for double yellow lines, DCC cannot argue that non-combustible furniture of the same width or less than parked vehicles is an obstruction.
- Low hanging surface and electrical wires on Lennox Terrace would make it impossible for fire engines to pass along the lane.

- The applicant's independent fire safety consultant concluded the proposed seating on Lennox Terrace was within acceptable parameters and they refer to the risk assessment being attached to the appeal.
- Reference is made to a map showing adequate clearance for pedestrians, clear access for fire services and fire escape routes for the business and residents.

6.2.5. Issue 5 - The amount of street furniture proposed would constitute visual clutter which would detract from the character and setting of this Protected Structure.

#### Applicant's Response

- Having rejected double yellow lines along the side of the building, vehicles are parked there all day by workers from local building sites. DCC deem it acceptable to block the structure with vehicles rather than allow bespoke furniture specifically designed and constructed to complement and enhance the elegance of the structure.
- The furniture has been designed and adapted following consultations with neighbours, is treated and impregnated with non-combustible materials. Reference is made to a SL1 certificate being attached and previously submitted to DCC and DFB.
- The furniture is arranged to enhance the protected structure, and minimise obstruction to residents, while providing a safe, comfortable seating area for people, allowing them to enjoy the character of the building.
- The building is approximately 12 metres in height, the vast majority of which is at all times visible, and the applicant takes umbrage with DCC's description of their elegant bespoke furniture as being 'visual clutter'.

#### Applicant's Conclusion

6.2.6. The business commenced operations during Covid and has become reliant on outdoor dining, a period that fostered the development of a year round outdoor café culture in Ireland. The decision to remove the option of outdoor dining, seems completely out of touch with what the public have grown to value and rely on, while the survival of the applicant's business, the employment of 14 people, the payment of rent, rates and a backlog of bills also depend on continued outdoor dining. Lennox 31 is a small neighbourhood daytime cafe with a strong local employment and customer base, which is reflected in the letters of support that form part of the appeal.

6.2.7. The final paragraph stated that 'we are also open to an oral hearing if further information needs to be provided or clarified', while Section 9 of the planning appeal form indicated that the applicant did not wish to request an oral hearing.

### 6.3. **Other documents in support of the application**

6.3.1. Other documents submitted as part of the appeal, in support of the application are:

#### 6.3.2. Letter from Ombudsman

- A response to the applicant from the Ombudsman regarding a complaint indicated that Dublin City Council would not permit the removal of any part of the existing parking bays on Lennox Street (where Area B is proposed) and while the entrance to Lennox Terrace is often blocked by vehicles, the fire brigade could stop as near to an incident as possible and commence firefighting operations for either end of the Lennox Terrace. This means that it would not be necessary to maintain a 3.5m wide channel along Lennox Terrace.

#### 6.3.3. Jim O'Callaghan TD

- The grounds of Deputy O'Callaghan's letter of support for the street furniture license are consistent with the applicant's grounds of appeal.

#### 6.3.4. Councillor Danny Byrne

- Councillor Byrne supports the application and suggests a compromise could be reached regarding the amount of furniture. Businesses which are employing people need support, particularly post Covid and during the current cost of living crisis.

#### 6.3.5. Ivana Bacik TD

- Deputy Bacik does not believe the level of demand for parking spaces on the street is such that the licence should be refused and has requested DCC to carry out a review of the current allocation of parking permits on Lennox Street.
- The overwhelming majority of local residents support the proposal, and she has been contacted by many local residents who signed the petition in favour. The retention of street furniture for cafes on the street enhances the public realm and community culture in the area.

#### 6.3.6. Chris Andrews TD

- Deputy Andrews letter of support echoes the grounds of the appeal including that the business closes no later than 5:30pm and he would therefore question any noise disturbance impact that the premises is having. Two restaurants in the vicinity operate late into the night and have also secured street furniture licenses. The business is a locally owned family business, provides employment for many people and has made a positive contribution to the local community.

#### 6.3.7. Johnston Property Management

- Alan Johnson, a surveyor living five doors from the property, is of the opinion that the proposal would not be considered as noise, parking or fire hazard. This much needed amenity provides a much superior service in the immediate area to fast food outlets and reduces the amount of travel required to enjoy such an environment.

#### 6.3.8. Petition of support

- A petition on the headed paper of 31 Lennox informed signatories that it would form part of the appeal and is signed by 52 people.

#### 6.3.9. Photograph

- A photograph shows a broken down car parked along the side of 31 Lennox, where double yellow lines were refused and where the seating would be provided. It is used to highlight and counter the reference to 'visual clutter' in the refusal of Dublin City Council.

### 6.4. **Planning Authority Response**

- None

### 6.5. **Observations**

6.5.1. An objection has been received from Majella O'Sullivan, with an address at 40 Warren Street, Portobello, Dublin 8, c107m southeast of the café. The grounds of the objection are:

- The area is zoned Z1, the applicant was permitted to place street furniture on the public street as a Covid measure. All licenses that had been granted have expired with the most recent application being refused. The applicant continues to use street

furniture at weekends and leaves the street furniture on the street permanently in contravention of and in breach of the decision of Dublin City Council.

- To grant a license would be contrary to the proper planning and sustainable development of the area.
- The property is a protected structure and a former house and shop built c1870 and retains fine 19th century timber shop front door cases and fascia. All of the proposed street furniture would visually detract from, obscure the protected structure, and create an imbalance in terms of symmetry of the building and completely blocks and obscures the yellow brick walling along Lennox Terrace. Accordingly, the proposal is contrary to Policy CHC2 of the Dublin City Development Plan, which seeks to ensure that the special interest of protected structures is protected.
- Access and pedestrian movement, particularly for people with disabilities, are restricted and obstructed by the tables and chairs stretching across the footpath when the café is busy.
- The area is a noise sensitive location with all adjacent neighbouring properties being residential. During Covid, the grocers shop that forms part of the neighborhood complex on Lennox Street placed street furniture on the street, but it has been removed as they no longer have a license. The concern would be that if this license is granted, it would set a precedent for the area.
- The cafe serves food and alcohol outdoors which generates significant and constant noise and general disturbance emanates from the public footpath.
- Serving food and alcohol along this residential street generates food and drink spillages and the placement of a storage box which is not sealed or fully enclosed and is used for refuse storage, attracts vermin to the area.
- The Board is urged to uphold the decision of Dublin City Council to refuse the application in order to protect and improve the residential amenity of the area.

6.5.2. The objection was accompanied by a series of photographs showing 1) the mobile dining pods, when closed, with their backs facing the lane, 2) the mobile dining pods when opened and occupied and 3) the tables and chairs on Lennox Terrace, with and without customers sitting at the tables, on dates after the decision to refuse

issued, demonstrating that the applicant continued to use the tables despite the decision of Dublin City Council to refuse the licence.

## 6.6. Further Responses

- None

## 7.0 Assessment

7.1.1. The proposed development is brought forward under section 254(1) of the Planning and Development Act 2000 (as amended). In their consideration of the development, under section 254(5) of the Act, the Board is required to have regard to:

- a. the proper planning and sustainable development of the area,
- b. any relevant provisions of the development plan, or a local area plan,
- c. the number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and
- d. the convenience and safety of road users including pedestrians.

7.1.2. Having regard to these requirements, local and national planning policy, the application details, the appeal submitted, all other documentation on file and my inspection of the site, I consider that the main issues for this appeal relate to:

- Principle of Development
- Oral Hearing
- Missing Information
- Duration of License
- Type of Seating
- Area A
- Area B
- Area C
- Concentration of existing street furniture in the area
- Visual Clutter



- Impact on Character of Protected Structure
- Storage Box
- Appropriate Assessment

## 7.2. Principle of Development

- 7.2.1. The three areas A, B and C, that are subject to this application are zoned 'Z1 – Sustainable Residential Neighbourhoods', the objective of which is 'to protect, provide and improve residential amenities'.
- 7.2.2. Outdoor seating is not listed as either a 'Permissible Use' or 'Open for Consideration Use' in the Z1 land use zoning, chapter 14, of the Dublin City Development Plan 2022 -2028. However, 'café/tearoom' and 'restaurant' are 'open for consideration' in Z1 areas and section 15.14.7.2 Restaurants/Cafes refers to proposals relating to outdoor dining, while Policy CCUV32 supports outdoor dining, subject to criteria including that all fixtures and fittings are fully removable outside operating hours and should not impede access or create undue clutter or trip hazard in the streetscape.
- 7.2.3. In principle, I do not have issue with the principle of the provision of outdoor seating adjacent to the established café and I concur with the applicant and the letters of support that such outdoor seating areas can add vibrancy and vitality to the area, notwithstanding the primarily residential nature of the immediately neighbouring properties. However, the overall suitability of the three proposed areas A, B and C for the provision of street furniture is dependent on other matters such as the size and location of the facility, concentration of existing furniture, visual impact and effect on amenities, access and noise, which are addressed below.

## 7.3. Oral Hearing

- 7.3.1. The final paragraph of the appeal cover letter stated that the applicant is open to an oral hearing if further information needs to be provided or clarified, while Section 9 of the Planning Appeal Form indicated that the applicant did not wish to request an oral hearing.
- 7.3.2. The appeal fee paid to the Board was €220 euro and did not include the additional fee of €50 that would be required if the applicant had requested that an oral hearing take place. I am satisfied that the comments made by the applicant in the final

paragraph of their grounds of appeal did not constitute a formal request that an Oral Hearing be held.

- 7.3.3. As detailed in paragraph 7.4 below, I note that some information referred to in the grounds of appeal is not on the appeal file, but I do not consider that it would be necessary to hold an Oral Hearing in order to address the absence of the referred to documents.

#### **7.4. Missing Information**

- 7.4.1. The cover letter makes reference on a number of occasions to information that it states is included as part of the appeal, but is not on the appeal file.
- 7.4.2. In response to Issue 3, the applicant states that access to Lennox Terrace was confirmed to be within acceptable parameters with letters from DCC and DFB and a drawing attached confirming same. However, no letters or drawings are on the appeal file and the applicant's comments are contradicted by the comments of Dublin Fire Brigade, in an email dated the 7<sup>th</sup> of June 2022, which stated that the Mobile Diner Pods are not permitted as they are constructed of combustible materials, as stated in the certificate submitted to DFB and that this is unacceptable.
- 7.4.3. In response to Item 5 of the refusal it was stated that all the materials used in the Mobile Diner Pods are treated and impregnated with a non-combustible material and that a SL1 certificate was attached and had previously been submitted to DCC and DFB. The appeal file does not contain an SL1 certificate.
- 7.4.4. While I note a letter has been attached to the appeal from the Ombudsman, I do not consider it be the documents referred to by the applicant in response to items 3 or 5 as the Ombudsman's letter specifically refers to issue 4 of the refusal.
- 7.4.5. The appeal refers to an independent fire safety risk assessment that was carried out by a Chartered Engineer / Fire Safety Expert that found that the furniture, layout and access were all within agreed parameters with DFB standards. The referred to report and letter are not on the appeal file.
- 7.4.6. The Board may wish to seek clarification from the applicant in respect of these matters, but I am satisfied that sufficient information is available on the file to demonstrate the lane at Lennox Terrace is of sufficient width to facilitate access by the Fire Brigade. I am also satisfied that should be Board be minded to grant a

license for seating, that the nature and type of seating can be addressed by condition, as Dublin Fire Brigade did not object to the provision of standard seating in any of the three areas A, B or C, on grounds that the seating would hinder access for fire-fighting purposes. Dublin Fire Brigade only had issue with the suitability of some of the materials proposed to be used, in particular the imitation grass in Area A and the planter screens in Area B as no certification has been provided for either and the mobile dining pods in Area C, as they were deemed to be constructed of combustible material.

7.4.7. Therefore, notwithstanding the conflicting statements in the grounds of appeal and the reports of Dublin City Council, regarding the suitability of some of the proposed street furniture, I am satisfied that should the Board be minded to grant the license, the nature and extent of furniture could be addressed by way of a condition, and it would not be necessary for the Board to seek this information by way of a request for further information.

7.4.8. The matters that are not addressed in the absent documentation are not matters related to planning but to building / fire regulations, and I am satisfied that the planning considerations in respect of the mobile dining pods can be restricted to the physical structures, their visual impact and their impact on the character of the streetscape and the protected structure.

## **7.5. Duration of License**

7.5.1. Article 202 of the Planning and Development Regulations provides that a licence may be issued for a period of 1) less than one year; 2) one year or 3) more than one year. The application does not state the duration of license that is being sought, and Dublin City Council do not address the matter. The general conditions imposed on Street Furniture Licenses by Dublin City Council include a condition stating that the granting of a street furniture licence will be for a 12 month period, which I consider to be too short a period following the issuing of a grant for the licence, as it would be necessary to submit and agree compliance matters with the planning authority before the first use of the street furniture.

Therefore, if the Board is minded to grant a street furniture licence to one or more of the three areas subject to this application, I would consider it appropriate to permit

the licence for a duration of three years to enable the impact and acceptability of the furniture to be reassessed at that time.

## **7.6. Type of Seating**

7.6.1. The application includes standard circular tables, higher timber barrel tables and mobile diner pods, as well as associated seating and planters, which would define the physical extent of the licensed areas, and act as noise and visual barriers. I am satisfied that the principle of the different types of street furniture are acceptable in all three locations, subject to more detailed considerations below.

## **7.7. Area A**

7.7.1. The Roads and Traffic Planning Division report stated that Area A is located within private land and would not be subject to a Street Furniture Licence, but should be the subject of a Planning Application.

7.7.2. Section 254 of the Planning and Development Act 2000 (as amended) applies to the 'Licensing of appliances and cables, etc., on public roads'. "Public road" means a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority.

7.7.3. The public road includes public footpaths, but Section 254 does not apply to the provision of appliances and cables, etc. on private land.

7.7.4. I have examined the site location and layout plans for all five of the planning application submitted in respect of '31 Lennox' since 2007, and each site included 'Area A' within the red lined site boundary, indicating that the area was owned by or under the control of the applicant on each occasion, and no letters of consent were included indicating that Area A was owned by a third party including Dublin City Council. Area A is defined by walls either side of the front of the café and is clearly distinguishable from the public footpath on Lennox Street. Adjacent properties that are registered on the land direct website have defined boundaries that correspond with Area A being private land and not forming part of the public road.

7.7.5. I am satisfied that 'Area A' as outlined in red in the 'Street Furniture License' drawing No. 210122-PL-02A is not located on the public road and I am further satisfied that the Board is precluded from considering the granting of a Street Furniture License in respect of Area A, as Section 254 of the Planning and Development Act 2000 (as

amended) only permits the licensing of appliances and cables, etc., on public roads and Area A is not on a public road.

- 7.7.6. Should the Board disagree, and consider that a Section 254 license can be granted for development in Area A, I note that both the Planning Officer and the Roads and Traffic and Planning Division Report considered that the provision of seating in Area A would be appropriate. I would concur with their assessments and I consider that the principle of four tables and eight chairs in Area A would be acceptable.
- 7.7.7. I also note that the planning officer's report on P.A. Ref. 2397/11, dated the 17<sup>th</sup> May 2011, stated that the café use extends presently with a ground floor and external terrace area to the front and upstairs at first floor level, while the Inspector's report on the appeal (PL29S.239092) confirmed this. This would indicate that Area A has been used for the seating of customers for more than twelve and a half years at the time of writing this report. The building was added to the NIAH following a 2018 survey and the photo of the building on the NIAH website shows tables and chairs in Area A, indicating that seating was also located in this area in 2018.
- 7.7.8. I am satisfied that Areas B and C are located on the public road and the provision of street furniture in these areas is considered in more detail below.

## 7.8. **Area B**

- 7.8.1. Area B refers to part of the public road directly in front of the building on Lennox Street. It would displace at least one and likely two pay and display parking spaces. It is proposed to place four low tables and four timber barrels, as well as sixteen chairs and four mobile planters on castors in this area, which would be one third of the total number of tables and twenty eight percent of the proposed outdoor seating.
- 7.8.2. The Roads and Traffic Planning Division considered that it is not appropriate to remove two parking spaces in an area of high parking demand, for the benefit of a private business, while the planning officer's report expressed similar concerns.
- 7.8.3. The Roads and Traffic Planning Division also referenced Policy MT14 of the now superseded Dublin City Development Plan 2016-2022, which sought to minimise the loss of on-street parking. This policy has not been retained in the new Development Plan but policy SMT25 refers to facilitating the re-organisation and loss of parking spaces to serve sustainable development targets such as in relation to, sustainable

transport provision, greening initiatives, sustainable urban drainage, access to new developments, or public realm improvements. It does not refer to the re-organisation or loss of parking spaces for the benefit of private businesses.

7.8.4. While the same policy principle would apply to Areas B and C, as both areas seeking a licence form part of the public road and replace parking spaces, the two areas present different issues and warrant separate consideration. Area B is easily accessible by traffic passing on the two-way Lennox Street, while Area C is at the end of the c4.2m wide cul-de-sac road that is blocked off to traffic by concrete and metal bollards and vehicular access is only possible from the southern end of Lennox Terrace which is c70m in length. I would therefore treat the two spaces differently, notwithstanding that they are governed by the same Development Plan policy.

7.8.5. The floor plan layout of the café under P.A Reg. Ref. 2397/11 (ABP PL29S.239092) indicated that there would 24 seating spaces at ground floor and capacity for a maximum of 20 at first floor level, giving a total internal capacity of 44 people. The 56 seats proposed in this licencing application would increase that capacity to 100 persons, with 16 seats proposed in Area B.

7.8.6. I consider that the overall proposal to increase seating from 44 to 100, an increase of 127% via new seating in Areas A, B and C, is significant and excessive relative to the scale of the existing café operating on the site and I also consider, without prejudice to any considerations regarding the suitability of Area C, that that the loss of two on-street pay and display parking spaces in Area B has not been justified by the applicant, would introduce a road hazard which would obstruct vehicles parking on the street and endanger pedestrians crossing the road by reducing visibility. The proposal would therefore be contrary to the proper planning and sustainable development of the area and for the above reasons, I recommend that the Board does not grant a Section 254 license for the provision of street furniture in the public road in Area B.

## 7.9. **Area C**

7.9.1. Area C refers to part of the public road along the side of the building on Lennox Terrace. I consider that there are materially different circumstances to be considered

in respect of the proposal to place street furniture in this area compared to Areas A and B.

#### Hours of use of seating and noise

- 7.9.2. The application form states that the proposed hours of operation would be 7am to 10pm. Those hours are inconsistent with the permitted hours of operation of the café which are Monday to Friday, from 0800 hours to 1730 hours and on Saturday and Sunday, from 0900 hours to 1730 hours.
- 7.9.3. In the grounds of appeal, the applicant states that following consultations and agreement with neighbours, noise has been mitigated by setting up the furniture after 9:00am with the last seating no later than 4:00pm. They also state that they regularly check decibel levels, however no details of the results of those noise level checks have been submitted with the application or as part of the appeal.
- 7.9.4. If the board is minded to grant permission, I consider that the setting up of the street furniture in Area C should be restricted to no earlier than 0900, with all furniture to be removed from the street prior to the closure of the cafe at 5:30pm.
- 7.9.5. The third party stated that the area was noise sensitive. Dublin City Council has produced noise maps to assess environmental noise generated by road traffic. The maps indicate that the Lden (day-evening-night) noise levels from road traffic in Areas A, B and approximately the northern half of Area C would be 60-64dB, while it would be 55-59dB in the southern half of Area C during the day time period from 07.00am to 07.00pm, which covers the period when the seating would be in use. The assessments of Dublin City Council do not refer to these noise maps. Considering the established noise levels in the area where the street furniture would be located, I am satisfied that the use of the outdoor seating in Area C during the daytime opening hours of the café would not increase the established background noise levels such that it would have a detrimental or negative impact on residential amenities including those of the third party objector.

#### Days of use and noise

- 7.9.6. In the grounds of the appeal the applicant has provided contradictory statements. In the response to issue 1 of the refusal – general disturbance – they state that furniture is not used in the laneway Monday to Wednesday, except where there is a

booking with a specific request for that area, whereas in response to issue 2, regarding noise, they state that noise has been mitigated by using the outdoor furniture on Thursday to Sunday only, and have also identified that the placement of the furniture on Lennox Terrace creates a noise nuisance, which is unquantified.

- 7.9.7. Notwithstanding my conclusions set out in section 7.4.5 above regarding noise and my recommendation that Area B should not be licenced, I consider it reasonable that should the board be minded to grant a license for area C, that the license is restricted to Thursday through Sunday only, with no use permitted on Mondays, Tuesdays or Wednesdays, in accordance the mitigation measure introduced by the applicant following consultations with neighbours, and this can be dealt with my way of a condition to that effect.
- 7.9.8. In order to restrict vehicles parking on the licenced area on Mondays, Tuesdays and Wednesdays, it would be necessary install temporary structures that would identify that the area is a licenced area for the purpose of street furniture, and I am satisfied that can also be addressed by way of condition.

#### Impact on access

- 7.9.9. Issues 3 and 4 of the refusal from Dublin City Council refer to the impact seating may have on pedestrians, and to a minimum width requirement of 3.5 metres for fire service access.
- 7.9.10. In Area C, there is no footpath and front doors of all houses on this street open directly onto the street which a public road for its full width. Section 4.3.1 of DMURS requires that minimum footway widths are based on the space needed for two wheelchairs to pass each other being 1.8m.
- 7.9.11. A number of bollards already restrict vehicular access to Lennox Terrace, while vehicular parking is permitted directly in front of the entrance to Lennox Terrace from Lennox Street, which restricts emergency vehicle access.
- 7.9.12. I am satisfied, having examined the comments of Dublin Fire Brigade in its submission, and in the the letter from the Ombudsman, should a license be granted for Area C, as outlined in the application drawings, that sufficient width would remain along Lennox Terrace to allow pedestrians, persons with mobility impairments and



fire or other emergency services to pass unimpeded and the street furniture would not create a hazard for persons using Lennox Terrace.

Storage of Mobile Diner Pods, tables and chairs when not in use

- 7.9.13. The third party observation states that the mobile diner pods were being stored on the street at night and photographs were submitted showing them inverted and stacked against the wall on Lennox Terrace, while the planning report showed the pods stored on the public road at Lennox Street.
- 7.9.14. Dublin City Council's standard conditions that would be attached to any license for street furniture includes that it may only be placed on the street between the times specified on the licence and must be removed outside these hours, and that if any street furniture is in place outside of permitted hours the licence will be rescinded and furniture will be removed at the licence holder's expense.
- 7.9.15. Section 15.14.7.2 of the Dublin City Development Plan makes similar reference where Restaurants/Cafes must ensure that all fixtures and fittings associated with outdoor dining are fully removable outside operating hours and should not impede access or create undue clutter or trip hazard in the streetscape.
- 7.9.16. The applicant has not provided any information on how or where they intend to store the street furniture outside of the hours of opening of the café.
- 7.9.17. While the applicant's submission claims that the mobile pods are non-combustible and that DCC and DFB were satisfied with the pods, evidence to this effect is not on the file and their claim is contradicted by the submission of Dublin Fire Brigade. Regardless of the nature of the material used for the construction of the mobile pods, I am satisfied that timber structures, regardless of their compliance with fire safety standards should not be left on the street outside of the hours of opening of the café.
- 7.9.18. Therefore, if the board is minded to grant a licence for street furniture in Area C, I recommend that the placement of furniture would be confined to the area outlined in red in Site Plan drawing No. 210122-PL-02, that the seating would be required to be removed from the area during the hours that the café is not opened and that the nature and materials of all seating would be required to be agreed in writing with the planning authority prior to its introduction. This would address any concerns about the suitability of the material proposed to be used in the pods or other seating.

## **7.10. Concentration of existing street furniture in the area**

7.10.1. I am satisfied that no other street furniture is located in proximity to the café at 31 Lennox that could be considered to have a cumulative negative impact on the amenities of residents in the immediate area.

## **7.11. Visual Clutter**

7.11.1. The refusal makes reference that the amount of street furniture would constitute visual clutter. I make the following comments in the context of my recommendation that the seating in Area B should be refused a licence, while there is evidence available that the seating in Area A has been in situ for more than twelve and a half years and was present when the NIAH assessment of the building was carried out.

7.11.2. It is also noted that the street furniture should be removed from the street between the hours of 1730 and 0900 every day and it would not be in situ at all in Area C on Mondays, Tuesdays and Wednesday's.

7.11.3. The Dublin City Development Plan 2022-2028 refers to visual clutter and cites a number of elements being newspaper stands, telephone kiosks, traffic and bus signs which are predominantly fixed elements of street furniture, whereas the proposed street furniture in this application, would all be moveable. In that context, I am satisfied that the proposed street furniture in Area C would not constitute visual clutter.

## **7.12. Impact on Protected Structure**

7.12.1. 31 Lennox is a protected structure, which includes Area A, as it is within the curtilage of the protected structure. Areas B and C are not within the curtilage and the paving in these areas has not been designated as a protected structure by Dublin City Council.

7.12.2. The third party observer referenced the protected status of the building, and using the terminology found in the NIAH to describe the building. They stated that the proposed seating was contrary to policy CHC2 of the now superseded Dublin City Development Plan 2016- 2022, which sought to ensure the special interest of protected structures is protected. The Dublin City Development Plan 2022-2028 simply describes 31 Lennox as a house, and offers no further description, while the

NIAH provides a detailed description primarily of the decorative features found on the front and rear elevations of the building.

- 7.12.3. Policy BHA2 of the 2022-2028 Dublin City Development Plan referring to Development of Protected Structures seeks that development will conserve and enhance protected structures and their curtilage and also refers to special interest
- 7.12.4. The special interest of the building is not stated in the Development Plan but can include visual impact and historic use. The proposed seating will not affect the use of the building or physically affect any aspect of the interior or exterior elements of the building which are protected or are referred to in the NIAH.
- 7.12.5. From a review of the planning history of 31 Lennox, I am satisfied that the seating in Area A at the front of the building has been in situ for twelve and a half years and was also present at the time the NIAH survey was carried out in 2018. Notwithstanding my earlier conclusion that the board is precluded from granting a Section 254 licence for Area A, I am satisfied that the provision of seating at the front of the building in Area A would not negatively affect the special interest or character of the protected structure, nor would it negatively affect the character of the streetscape on Lennox Street or have a negative visual impact.
- 7.13. If Area B were to be granted a licence and street furniture was to be placed thereon, it would restrict high-sided vehicles from parking in this immediate area. This would improve views of the building when viewed from Lennox Street and would have a positive effect on the special interest and character of the protected structure, as well as the character of the streetscape on Lennox Street and would have a positive visual impact.
- 7.14. The NIAH description of the building only makes limited comments to the side elevation at Lennox Street, wherein it states that it has yellow brick walling, laid in English garden wall bond, while it also notes that unusually this building lacks openings to its long west wall. The proposed seating in Area C including tables, chairs and mobile diner pods would not alter or affect the physical character of the protected structure and while views of the brick wall of the protected structure would be partially blocked during the hours of operation of the café on the days that mobile seating would be set up in Area C, I am satisfied that the visual impact of street furniture, including the mobile diner pods, along the side of 31 Lennox during specific

operation hours and days would be minimal and would not warrant a refusal of the licence. I do however consider that the visual impact would be unacceptable if the seating including the mobile diner pods was to be stored on the street outside of opening hours and I have previously addressed this matter in paragraph 7.9.18 above.

#### 7.15. **Storage Box**

7.15.1. Aside from the proposed seating and other elements of furniture referred to above, a storage box is located on the side of the building adjacent the eastern side of Area A, on the corner of Lennox Street and Lennox Terrace. While a third party observation stated that it was open and attracting vermin, on the occasion of the site visit it was closed, was fitted with bolt locking system and was placed against the wall at the entrance to Lennox Terrace. Unlike the other elements of street furniture, which I would recommend is removed outside of the opening hours of the café, I am satisfied that the storage unit does not constitute visual clutter and does not have a negative impact on the character of the streetscape or the protected structure and would not be required to be removed during the period when the licence would be in force.

#### 7.16. **Appropriate Assessment**

7.16.1. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise, and it is not considered that the proposed 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**

8.1.1. It is recommended that:

**Area A** – The Board advice the applicant that it is precluded from determining the appeal in respect of Area A in accordance with Section 254 of the Planning and Development Act 2000, as amended, as this area consists of private land and is not located on or along the public road.

**Area B** – The licence be refused for the reason set out below.

**Area C** – The licence be granted subject to the conditions set out below.

## 9.0 Reasons and Considerations

### **Area A**

Having regard to the location of Area A as detailed in the site plan submitted with the application, it is determined this area consists of private land and is not located on or along the public road, and the Board is precluded from determining the appeal in respect of Area accordance with Section 254 of the Planning and Development Act 2000, as amended.

### **Area B**

Having regard the provisions of Section 254 of the Planning and Development Act 2000, as amended, the proposal to place street furniture in the public road in Area B, to the front of 31 Lennox, would require the removal of a number of easily accessible on street public pay and display parking spaces on a busy inner-city thoroughfare, to serve a private business, would reduce visibility for motorists parking in the area and pedestrians crossing the road. The proposed placing of street furniture in Area B would endanger public safety by reason of traffic hazard or obstruction of road users and would therefore be contrary to the proper planning and sustainable development of the area

### **Area C**

Having regard to the land use zoning and the provisions of the Dublin City Development Plan 2022 - 2028, the existing permitted café and the limited hours of operation, and the nature, scale and layout of the proposed seating for which a street furniture licence has been sought in Area C, the Board considered that, subject to compliance with the conditions set out below, the provision of street furniture in Area C would not seriously injure the amenities of the area, or of property in the area, would not give rise to a traffic or pedestrian hazard, would not negatively affect the special interest or character of the protected structure, nor would it affect the character of the streetscape on Lennox Street. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

### Area C

1.	<p>The licence in respect to Area C on Lennox Terrace shall be in accordance with the details lodged with the board on the 10<sup>th</sup> of October 2022, except as may otherwise be required in order to comply with the following conditions.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Street furniture shall be restricted to the area outlined in red in the Site Plan drawing No 210122-PL-02A.</p> <p><b>Reason:</b> In the interest of pedestrian safety and to provide access for emergency services.</p>
3.	<p>With the exception of the storage box located on the corner of Lennox Street and Lennox terrace, the street furniture shall be used between the hours of 0900 and 1730 Thursday to Sunday only and shall be removed from the area and shall be stored indoors during the times the furniture is not permitted to be on the street, that is, from 1730 hours to 0900 hours Thursday to Sunday and all day on Mondays, Tuesdays and Wednesdays.</p> <p><b>Reason</b> In the interest of residential amenity.</p>
4.	<p>Prior to the first placement of any street furniture in Area C, the applicant shall submit to the planning authority and agree in writing details of the following:</p> <p>(i) Technical specifications of all elements of the proposed street furniture to be place on the road, confirming that each element of Street Furniture is suitable for use as street furniture.</p> <p>(ii) Details of mobile barriers to be installed at the southern end of the Area C to restrict parking of vehicles and facilitate the free movement of all persons using Lennox Terrace outside of the hours that furniture is permitted to be placed on the road.</p> <p><b>Reason:</b> In the interest of public health and safety.</p>

5.	<p>No outside amplification/ speakers/ live entertainment is permitted, and no speaker or amplifier within these premises shall be configured in such a manner as to project sound onto the public footpaths or road.</p> <p><b>Reason:</b> In the interest of the amenity of the area.</p>
6.	<p>The appropriate rental and table charges shall be paid to Dublin City Council within three months of the date of this Order.</p> <p><b>Reason:</b> It is considered reasonable that the applicant contributes to Dublin City Council for the use of the public pavement.</p>
7.	<p>All appropriate public liability insurance shall be in place for the duration of this licence.</p> <p><b>Reason:</b> in the interest of public safety.</p>
8.	<p>This licence shall be valid for a period of three years only from the date of the decision of the Board.</p> <p><b>Reason:</b> To enable the impact and acceptability of such street furniture at this location to be re-assessed and in the interests of amenity and public safety.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Joe Bonner  
Senior Planning Inspector

24<sup>th</sup> January 2024

**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-314161-22		
<b>Proposed Development Summary</b>	Section 254 Street Furniture License for tables and chairs on the public footpath outside a café.		
<b>Development Address</b>	Lennox Terrace, adjacent to 31 Lennox Building, 31 Lennox Street, Portobello, Dublin 8		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	X No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>	X	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4



**4. Has Schedule 7A information been submitted?**

<b>No</b>	N/A	<b>Preliminary Examination required</b>
<b>Yes</b>	N/A	<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_

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