

An
Bord
Pleanála

Inspector's Report ABP319075-24

Development	Section 254 street furniture licence application for 8 tables, 16 seats and 4 screens on public footpath to front of premises.
Location	Bewley's Café, 78-79 Grafton Street, Dublin 2, D02K033.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	SF128/2023.
Applicant(s)	Bewley's Grafton Street Limited.
Type of Application	Street Furniture Licence.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Bewley's Grafton Street Limited.
Observer(s)	None.
Date of Site Inspection	17/04/2024.
Inspector	Anthony Abbott King.

1.0 Site Location and Description

- 1.1. Bewley's Café is an iconic restaurant / Café located on the west side of Grafton Street located approximately midway along this pedestrian street.
- 1.2. Grafton Street is a primary retail street and forms the spine of the south city retail core.
- 1.3. Site area is given as 27 sqm.

2.0 Proposed Development

- 2.1. Section 254 street furniture licence application was lodged by Col Campbell for a licence to place 8 tables, with 16 chairs on two areas of public roadway measuring in total 17.28sqm. (3.2mL x 2.7mW x 2) to the public footpath outside Bewley's Café, 78-79 Grafton Street, Dublin 2.

3.0 Planning Authority Decision

3.1. Decision

Refuse a licence for the following reason:

The application for an annual street furniture licence to place street furniture outside Bewley's Café, 78-79 Grafton Street, Dublin 2 has been assessed and it is recommended that a licence be refused on various grounds including the fact that placing street furniture on Grafton Street would constitute an obstruction to pedestrians given the very high level of footfall in the area.

There is serious concern that the proposed seating area would interfere with the free flow of pedestrians in the area and in particular vulnerable users and those with accessibility issues.

Having examined all the various reports and recommendations on this application, I recommend that an application to place street furniture on the public footpath outside the above premises be refused on the grounds that is not considered appropriate.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The decision of the CEO of Dublin City Council does not reflect the recommendation of the planning case officer.

The planning case officer recommend that a license should issue subject to the following conditions, given the importance of Bewley's Oriental Café on Grafton Street and Policy CHC09 in the Dublin City Development Plan, which seeks to protect the use of the building as a café:

1. The proposed seating area should be reduced in width so that the tables, chairs and screens do not encroach on the rainwater channel.
2. The hours of use shall be amended to 11.00 to 20.00 to facilitate delivers on the street.
3. Screening should be a plain colour or neutral canvas type, be more than 1 metre high and no advertising apart from the name of the premises be used on the screens without permission of Dublin City Council, in accordance with the proper planning and development of the area.
4. The proposed street furniture is to be stored indoors during times furniture is not permitted to be on the street 1,e outside hours of operation.

3.2.2. Other Technical Reports

- The Roads & Traffic Planning Division recommends that a street furniture licence should be refused.

The proposed development takes place within Grafton Street. It is considered that placing street furniture on Grafton street would constitute an obstruction to pedestrians given the very high level of footfall in the area. There is a serious concern that the proposed seating area would interfere with free flow of pedestrians in the area in particular vulnerable users and those with accessibility issues. The Scheme of Special Planning Control for Grafton Street states that street furniture will not be favourably considered on Grafton Street. If

permitted, street furniture at this location would set an unfavourable precedent for the rest of Grafton Street.

4.0 Planning History

There is a complex planning history on this site.

5.0 Policy and Context

5.1. Development Plan

The following policy objectives of the Dublin City Development Plan 2022-2028 and ancillary documents are relevant:

Zoning

The zoning objective is 'Z5' (Map E) 'City Centre': *To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.*

Restaurant / café is a permissible use.

Grafton Street Architectural Conservation Area

The applicant site is located within an Architectural Conservation Area.

Protected Structure(s)

Bewley's Cafe, 78-79 Grafton street, is a Protected Structure (RPS Ref: no. 3254).

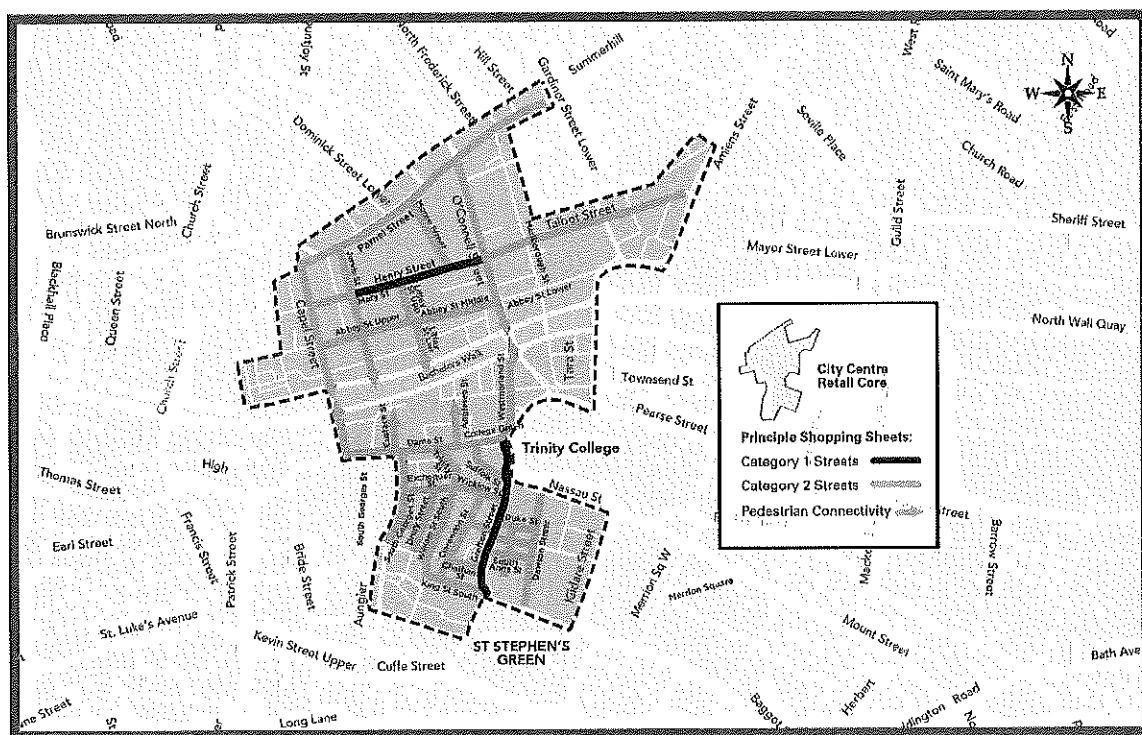
Chapter 11 (Built Heritage & Archaeology) Policy BHAO4 (The Bewley's Oriental Café) is relevant and states:

Bewley's Oriental Café at No. 78/79 Grafton Street is deemed to be a use that contributes significantly to the special and unique character of Grafton Street and, as such, is considered an essential part of the street. It is an objective, in accordance with the Scheme of Special Planning Control for Grafton Street and Environs, to protect the use of the building as a café, which is intrinsic to the special character of the building at basement, ground and first floor. Appropriate ancillary uses may be considered on the upper floors.

Grafton Street is a Category 1 Retail Street

Figure 7.2: Dublin City Centre Retail Core, Principal Shopping Streets

The City Centre, Urban Villages and Retail | **Chapter 7**



Public House (Licensed Premises) / Restaurant-Cafe

Chapter 15, Section 15.14 (Commercial Development/Miscellaneous), Section 15.14.7.2 (Restaurants/Cafes) is relevant and states:

The positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city is recognised. In considering applications for outdoor dining the following is relevant:

For proposals relating to outdoor dining, applicants will be required to demonstrate whether temporary or permanent outdoor dining facilities are provided. These areas should be fully contained within the site boundary. Temporary dining should ensure 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.

Chapter 15, Section 15.17.4 (Outdoor Seating and Street Furniture)

Certain uses in the public realm, including elements of street furniture, can lead to problems of visual clutter and to obstruction of public footpaths for pedestrians, in particular people with disabilities. 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.*

Scheme for Special Planning Control for Grafton Street and Environs 2019

Grafton Street is within a designed area of special planning control. Scheme of Special Planning Control was passed by resolution of Dublin City Council September 2019 and is in operation for six years. The following is relevant:

Part (1a) Existing Land Uses, Section 1.1.3 states:

A number of uses on Grafton Street are of special significance through their long association with the street. Businesses such as Brown Thomas, Weir and Sons and Bewley's Cafe are now an essential part of the street's character and continue in the tradition of providing prestigious products and fine service in high quality surroundings. As leading outlets in their respective fields, they have become major magnets and attract substantial numbers of visitors to Grafton Street contributing to the social, cultural, economic and architectural character of the street. It is an objective of the Scheme of Special Planning Control to protect these particular uses, which contribute so much to the special and unique character of the area. [my underline]

Part 5 (the Public realm) inter alia states:

Section 5.5.2 Key Objective (10): To provide for a high quality range of street furniture that will enhance the public realm.

Section 5.5.7 is relevant and states:

In general, given the relatively narrow width of Grafton Street and the high pedestrian footfall the provision of certain elements of street furniture on the public footpath or private landings will not be favourably considered. These elements include newspaper stands, A-frames and spinner stands erected by retailers or tables and chairs for cafes, restaurants or bars....

And Section 5.5.8 is relevant and states.

Elsewhere within the study area the following standards will be applied to proposals for these elements of street furniture: -

Street furniture will require either a licence under Section 254 of the Planning and Development Act 2000, (as amended) or planning permission (including street furniture erected on private landings)

5.2. EIA Screening

5.3. The proposed development is not within a class where EIA would apply.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised below:

- There is clear, long-standing, precedent for the provision of street seating outside Bewley's Café in the location currently proposed. No difficulties have arisen to date. The applicant undertakes to comply with the general conditions that apply in respect of street furniture licences and any specific conditions that may be attached to the licence.

- The Dublin City Development Plan 2022-2028 recognises that the retail sector internationally has become one element of a wider leisure and cultural city experience. A vibrant mix of retail, leisure and cultural uses including cafés, restaurants and exhibition spaces support the future success of the city centre. A key objective of the development plan is to provide for a diversity of other uses complementing the retail function. The appellant cites the Dublin City Development Plan, Vol 2, Appendix 2, Retail strategy (p.195).
- In securing a more vibrant mix of shopping experiences, the development plan notes the emergence of outdoor dining as a council-led response to the creation of a more vibrant and attractive city and to support business. It is the objective of the Plan to support out-door dining where it does not diminish the public realm and /or impede pedestrians including Policy CCUV32.
- Grafton Street is a category 1 retail street with limited non-retail uses. Bewley's is one of the two only cafes along the street;
- The Scheme for Special Planning Control for Grafton Street (SSPC) recognises the importance of Bewley's Café to the vitality of Grafton Street.
- The width of the street and the high pedestrian footfall are key determinants in the suitability of Grafton Street as a location for outdoor dining. The appellant claims that Grafton Street at the subject location has sufficient width (approximately 11.75m), visibility (sightline 120m) and lack of physical barriers to movement to support the proposal. This claim is supported by Section 6 (which sets out the various design standards for safe movement in the public realm) of the City Council's 'City Centre Public Realm Masterplan (2016): The Heart of Dublin', which forms part of the development plan (Objective CCUVO16, Vol 1, pg. 26).
- The appellant suggests in order to assist the Board that the licence could perhaps be granted subject to operational restriction limiting the outdoor dining activity to the period from 1st May to the 31st October in each calendar year, as the summer months tend to be the quietest period on the street.

6.2. Planning Authority Response

N/A

7.0 Assessment

- 7.1. Having reviewed the street licence application documentation, the grounds of appeal and conducted a site visit, I consider that there are no new matters for consideration.
- 7.2. The applicant is applying for a street furniture licence for an outdoor seating area to Bewley's Café that would be located on the public pavement immediately outside the Grafton Street entrance frontage comprising an area of approximately 27 sqm. The proposed seating area would accommodate 8 tables and 16 chairs. The proposed dedicated seating area would be defined by four 1.8m high screens measuring 10m in length and 2.7m in width. The screens comprise timber on the bottom half and glass on the top half. The proposed operation is inclusive 08.00-20.00 hours. The planning authority have refused the issue of a street licence principally on the grounds of pedestrian obstruction.

Technical reports

- 7.3. The Roads & Traffic Planning Division recommends refusal of the street furniture licence notwithstanding the historical importance of Bewley's on Grafton Street. The Report notes that that deliveries are facilitated daily from 6am to 11am along Grafton Street. Furthermore, the seating area would encroach on the existing PC channel along Grafton Street that delineates the historical roadway/footpath along the street.
- 7.4. The planning authority planning assessment recommends the issue of a licence subject to condition. The planning case officer concludes that the proposal is acceptable given the importance of Bewley's Oriental Café on Grafton Street as provided for in Policy CHC09 of the Dublin City Development Plan, which seeks to protect the use of the building as a café.

The unique status of Bewley's Café Grafton Street

- 7.5. Policy BHA04 (The Bewley's Oriental Café), Chapter 11 (Built Heritage & Archaeology) of the Dublin City Council Development Plan 2022-2028 states that Bewley's Oriental Café at No. 78/79 Grafton Street is deemed to be a use that contributes significantly to the special and unique character of Grafton Street and, as

such, is considered an essential part of the street. In this regard, it is an objective of the planning authority, in accordance with the Scheme of Special Planning Control for Grafton Street and Environs, to protect the use of the building as a café, which is intrinsic to the special character of the building at basement, ground and first floor levels.

- 7.6. The appellant states that there is clear, long-standing, precedent for the provision of street seating outside the main frontage of Bewley's Café on Grafton Street and that no difficulties have arisen to date. I consider that the out-door seating area is an extrusion of the internal protected café use into the public street, which has previously successfully advertised the presence of the café on Grafton Street.

Area of special planning control

- 7.7. Bewley's Café is located within the designation of the Scheme of Special Planning Control for Grafton Street and Environs (2019). It is an objective of the Scheme of Special Planning Control to protect the special and unique character of the area, which is intrinsically linked to specific special existing historic uses including Bewley's Café. The Scheme acknowledges that businesses such as Brown Thomas, Weir and Sons and Bewley's Cafe are now an essential part of the street's character and continue in the tradition of providing prestigious products and fine service in high quality surroundings.
- 7.8. The Scheme acknowledges that as leading outlets in their respective fields [Brown Thomas, Weir and Sons and Bewley's Café], these iconic historic land uses have become major magnets and attract substantial numbers of visitors to Grafton Street contributing to the social, cultural, economic and architectural character of the street.
- 7.9. I note that the Scheme generally does not favourably consider the provision of certain elements of street furniture on the public footpath or private landings given the relatively narrow width of Grafton Street and the high pedestrian footfall. However, I further note the claim of the appellant that the street width at the location of the proposed outdoor seating area (approximately 11.75m), the modest projection of the seating area into the street (2700mm) and sightlines (120m) are mitigating factors in support of the licence.
- 7.10. I consider that Bewley's café plays a led role as café / restaurant on Grafton Street providing complementary services to the primary retail offering on this category 1

retail street. I further consider that an out-door seating area to the front of the premises, subject to compliance with Section 15.17.4 (Outdoor Seating and Street Furniture) of the Dublin City Development Plan 2022-2028, is an intrinsic component of Dublin urban café / restaurant culture and would enhance the presence of one of the iconic historic land uses on Grafton Street 'Bewley's' aligned with the special character of the Street.

- 7.11. I consider that the proposal for an out-door seating area would be consistent with Policy Objective BHA04 (The Bewley's Oriental Café) of the Dublin City Development Plan 2022-2028, which seeks to protect café use within the building at basement, ground and first floor levels. In this instance by successfully advertising the use of the building as a café on-street through the provision of out-door dining,

Development plan assessment criteria

- 7.12. Section 15.17.4 (Outdoor Seating and Street Furniture) of the Dublin City Development Plan 2022-2028 provides overall criteria for the assessment of out-door seating, which can lead to problems of visual clutter and to obstruction of public footpaths for pedestrians, in particular people with disabilities, if not correctly regulated. I consider that the proposed out-door seating area, which is modest in scale (2700mm x 10000mm) and would be contained within screen barriers, would be consistent with the stated criteria.
- 7.13. The planning case officer concluded that a licence should issue subject to a number of conditions including Condition 3 regulating the screens. I would concur with the planning case officer that the screens should be a plain colour or neutral canvas type, be more than 1 metre high and no advertising apart from the name of the premises be used on the screens without permission of the planning authority. This can be dealt with by way of condition.
- 7.14. The planning case officer also recommended a restriction on the hours of operation of the out-door seating area. Condition 2 limited the hours of operation of the out-door seating area to between 11.00 hrs. to 20.00 hrs. in order to facilitate deliveries on the street. I do not concur with the planning case officer. The animation of this part of Grafton Street by the operation of the outdoor seating area between 8.00 am and 11.00 am would be of merit given that the street is relatively quiet in the morning. The high visibility of the seating area on a modestly populated street would also

advertise the café / restaurant use. Therefore, on balance I consider that the hours of operation should be as proposed by the applicant.

- 7.15. I would concur with the planning case officer that the proposed seating area should be reduced in width so that the tables, chairs and screens do not encroach on the rainwater channel. This can be dealt with by way of condition. I consider that the proposed out-door seating area would comply with the assessment criteria provided by the development plan for appropriate and complementary out-door seating for the extrusion of certain land uses onto the street.

Conclusion

- 7.16. I acknowledge the serious concern of the Roads & Traffic Planning Division of the planning authority that the proposed seating area would interfere with the free flow of pedestrians in the area and in particular vulnerable users including those with accessibility issues. However, on balance, I consider that the provision of an outdoor seating area to Bewley's Café, located on-street immediately outside the main Grafton Street entrance, is appropriate given that the proposal would enhance the presence of the existing iconic café / restaurant on Grafton Street aligned with the special character of the Street.
- 7.17. I conclude that a positive recommendation should issue attaching the conditions as outlined above.

8.0 Recommendation

- 8.1. I recommend that a Section 254 licence should issue having regard to the reasons and considerations set out below.

9.0 Reasons and Considerations


Having regard to the grounds of appeal, the modest scale of the proposed outdoor seating area measuring 27sqm. (projecting 2700mm into the street), the status of Bewley's Café deemed in Policy Objective Policy BHA04 (The Bewley's Oriental Café), Chapter 11 (Built Heritage & Archaeology) of the Dublin City Development Plan 2022-2028 to be a use that contributes significantly to the special and unique character of Grafton Street and where café use is intrinsic to the protected land use

at basement, ground and first floor levels, it is considered that the proposal subject to condition, would be consistent with the Scheme of Special Planning Control for Grafton Street and Environs (2019), as it would enhance the presence of one of the iconic historic land uses on Grafton Street 'Bewley's' aligned with the special character of the Street, would satisfy the criteria listed in Section 15.17.4 (Outdoor Seating and Street Furniture) of the Dublin City Development Plan 2022-2028 and, as such, would be consistent with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The proposed seating area should be marginally reduced in width so that the tables, chairs and screens do not encroach on the rainwater channel. The proposed street furniture is to be stored indoors during times furniture is not permitted to be on the street i.e. outside the hours of operation. The hours of operation are 8.00 -20.00 hrs.
2.	The screens should be a plain colour or neutral canvas type, be more than 1 metre high and no advertising apart from the name of the premises be used on the screens without permission of the planning authority.

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.



Anthony Abbott King
Planning Inspector

26 April 2024