



An
Coimisiún
Pleanála

Inspector's Report

ABP 322337-25

Development	The erection of 2 metre high glazed screens to the front of the existing permitted ground floor unit
Location	296C, North Circular Road, Phibsborough, Dublin 7
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	WEB2397/24
Applicant	Iosif Gabor
Type of Application	Permission
Planning Authority Decision	To refuse permission
Type of Appeal	First Party
Appellant	Iosif Gabor
Observers	None
Date of Site Inspection	26 th June 2025
Inspector	Trevor Rue

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1.0 Site Location and Description

- 1.1. The application site, with a stated area of 0.127 hectares, is about 1.85 kilometres to the north west of the centre of Dublin. It comprises a three-storey building on the southern side of North Circular Road, together with associated space to the front of the building.
- 1.2. The application building is in a mixed use, with a restaurant on the ground floor and apartments on the upper floors. There is an extendable and retractable awning attached to the fascia in front of the restaurant. There are five bicycle stands approximately 0.375 metres from the footpath kerb, beyond which there is a pay-and-display parking bay.
- 1.3. The row of buildings in which the site is located is bounded to the east by Avondale Road and to the west by Great Western Avenue, both of which are residential streets. An open space known as Great Western Square lies to the south. There are extensive church grounds behind a wall on the northern side of North Circular Road opposite the site. There are two houses further to the west on that side of the road and a row of mainly residential properties on Cabra Road on the far side of the church grounds.

2.0 Proposed Development

- 2.1. It is proposed to remove the existing retractable awning and to install a new sitting area which would project from the existing building by 2.5 metres and be 4.176 metres wide. The height of the structure would vary from 2.2 to 2.52 metres. It would have solid colour screening and a painted metal frame with infill glazed sections above and would be enclosed by an all-weather canopy/terrace. A door would lead through the sitting area to the existing front door of the restaurant. The proposed new sitting area would accommodate four tables and eight chairs.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 28th March 2025, Dublin City Council notified the applicant of its decision to refuse permission, giving the following reason:

Having regard to the land use zoning, the transitional setting of the subject site and the proximity of the site to residential dwellings along North Circular Road, it is considered that the proposal consisting of a permanent enclosed outdoor seating area would break the street's established building line, and allow for an intensified use of an outside restaurant area which fronts onto a mainly residential street – thus undermining the visual amenities of the streetscape, and the residential amenities of the area and would run contrary to the land use objective of the Z1 and adjoining Z2 lands which seeks to protect, provide and improve residential amenities would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

Planning Reports

3.2.1. Planning officer reports dated 9th December 2024 and 21st March 2025 provided the reasoning for the authority's decision. The main points were as follows:

- It is referenced on the submitted drawings and was noted on a site visit that a seating area and canopy which do not have the benefit of planning permission are in place to the front of the restaurant. The applicant was requested to clarify this situation and stated in response that the unauthorised temporary seating area and canopy are to be removed. He also stated that there are no proposals for additional signage, lighting fittings, or fixtures.
- The proposal is to extend the existing restaurant with a fully enclosed seating area to the front. The proposed screening would rise to 2.5 metres and would not be moveable at night or when the restaurant was not in operation, whereas the current unauthorised wind breakers are about 1 metre high and have less impact on the visual amenity of the streetscape. The proposed roof enclosure would not be appropriate and unlike the current unauthorised canopy it could not be retracted. The new structure would be permanent and would break the established building line on North Circular Road.
- The first report suggested that a temporary permission might be granted for a period of three years to ascertain whether the provision of external seating is a viable option; this suggestion was not repeated in the second report. The second report suggested that should planning permission be granted, the use

of the eating area should cease at 9pm but then went on to express concern that the proposed extension would cause undue noise disturbances to the residential units above the premises and in the immediate vicinity.

Other Technical Reports

- 3.2.2. The Council's Drainage Division had no objections subject to standard conditions.
- 3.2.3. The Council's Transport Planning Division sought further information on several matters. The applicant submitted a revised layout plan which shows a distance of 2.935 metres between the proposed screening and the kerb edge. He confirmed that bin storage would continue to be located along a lane at the rear of the property. A designated bay in the car park would be used by delivery vehicles. The Division raised no further concerns about the proposed development provided all costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development were at the expense of the developer.

3.3. Prescribed Bodies

- 3.3.1. Transport Infrastructure Ireland noted that the site falls within an area set out in a levy scheme for light rail established under Section 49 of the Planning and Development Act 2000. The scheme lists several exemptions where the levy does not apply.
- 3.3.2. No comment was received from Uisce Éireann, the National Transport Authority or Irish Rail.

4.0 Planning History

4.1. Application Site

- 4.1.1. **3886/20:** On 6th April 2021, Dublin City Council decided to grant permission to the present appellant for change of use of the remaining commercial units at the present application site to three apartments through the addition of an extra storey atop the building, as well as extensions to the rear. On appeal (**310073-21**), An Bord Pleanála granted permission for the development subject to conditions on 4th April 2022.
- 4.1.2. **5183/22:** On 30th August 2023, the Council granted permission subject to conditions to the present appellant for change of use of the existing ground floor retail unit of the

application property to use for the sale of hot food for consumption either on or off the premises. However, Condition 2 stated that:

This permission is in respect of a seated restaurant and specifically excludes the sale of hot food for consumption off the premises. Any delivery element shall be ancillary to this use.

Reason: *To protect the residential amenities of the surrounding area.*

Condition 4 stated that:

The restaurant shall only operate (open to the public) between 09.00 and 22.30 Monday to Sunday. The specified hours of operation shall be strictly adhered; any alterations to same shall be subject to the prior written consent of the Planning Authority.

Reason: *To ensure a satisfactory standard of development and to protect the residential amenities of residents in adjacent premises.*

4.2. Adjacent Sites

- 4.2.1. **4452/19:** On 27th February 2020, the Council granted permission for change of use to three residential apartments, with a total of six bedrooms on first and second floors of 296A North Circular Road, to the east of the present application site.
- 4.2.2. **3537/22:** On 21st June 2022, the Council granted permission for change of use of a ground floor commercial unit to a one-bedroom apartment and conversion of a two-storey dwelling at first and second floors to two apartments at 296B North Circular Road, adjoining and immediately to the east of the present application site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Map E of the Dublin City Development Plan 2022-2028 shows the application site and the adjoining properties in the terrace within Primary Land Use Zoning Category Z1, Sustainable Residential Neighbourhoods. The Z1 zoning objective, set out in Section 14.7.1 of the Plan, is to protect, provide and improve residential amenities. Section 14.7.1 states that the vision for residential development in the city is one where a wide range of high quality accommodation is available within sustainable communities,

where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure and community services. Open for consideration uses include café/tearooms and restaurants.

5.1.2. Adjacent properties to the north, south, east and west of the application site are within Zone Z2, Residential Neighbourhoods (Conservation Areas). The Z2 zoning objective, set out in Section 14.7.1 of the Plan, is to protect and/or improve the amenities of residential conservation areas. The general objective is to protect such areas from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.

5.1.3. Section 15.14.2 of the Development Plan is headed “Architectural Design Quality”. It states that the layout, position and composition of buildings on a site should be considered. The layout should be designed to be attractive to all users, particularly pedestrians, cyclists, people with disabilities and the elderly. Key principles to consider include:

- the character of both the immediately adjacent buildings, and the wider scale of development and spaces surrounding the site; and
- the existing context and the relationship to the established pattern, form(s), density and scale of surrounding townscape, taking account of existing rhythms, proportion, symmetries, solid-to-void relationships, degree of uniformity and the composition of elevations, roofs and building lines.

5.1.4. Section 15.14.7.2 of the Plan recognises the positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city. It states that in considering applications for restaurants, the following will be taken into consideration:

- the effect of noise, general disturbance, hours of operation and fumes on the amenities of nearby residents;
- traffic considerations;
- waste storage facilities;
- hours of operation;
- the number/frequency of restaurants and other retail services in the area; and
- the contribution to the vitality and viability of the area.

5.1.5. Section 15.14.7.2 goes on to say that 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.

5.2. Natural Heritage Designations

5.2.1. The application site is not in any Natura 2000 site of European nature conservation importance. The nearest Natura 2000 sites are:

- South Dublin Bay and River Tolka Estuary Special Protection Area (SPA), about 3.2 kilometres to the east, designated for various bird species;
- North Bull Island SPA, about 6.3 kilometres to the east, also designated for various bird species;
- South Dublin Bay Special Area of Conservation (SAC), about 5.2 kilometres to the south east, designated for mudflats and sandflats, annual vegetation of drift lines, annuals colonising sand and mud and embryonic shifting dunes; and
- North Dublin Bay SAC, about 6.3 kilometres to the east, designated for tidal mudflats and sandflats, annual vegetation of drift lines, annuals colonising sand and mud, salt meadows, shifting and fixed dunes, dune slacks and petalwort.

5.2.2. Table 10-2 of the Development Plan lists two other sites of international nature conservation importance in Dublin Bay, namely North Bull Island Ramsar Wetland Site; and Sandymount Strand / Tolka Estuary Ramsar Wetland Site. It also lists North Bull Island National Special Amenity Area and North Bull Island National Nature Reserve.

5.2.3. The application site is not in or near any Natural Heritage Area (NHA). The nearest proposed NHA is the Royal Canal, about 540 metres to the north, which supports hedgerow, tall herbs, calcareous grassland, reed fringe, open water, scrub and woodland. There are four other proposed NHAs in the area served by Dublin City Council – North Dublin Bay; South Dublin Bay; Dolphins, Dublin Docks near Pigeon House Harbour; and Grand Canal.

6.0 Environmental Impact Assessment Screening

- 6.1. The proposed development is not within any prescribed class set out in Schedule 5 of the Planning and Development Regulations 2001, as amended, or in Part V of the Roads Regulations 1994. No mandatory requirement for environmental impact assessment therefore arises and there is also no requirement for a screening determination. Please refer to Form 1 in Appendix 1 to this report.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. The grounds of appeal may be summarised as follows:

- The use of the premises is explicitly permitted under the Z1 zoning objective. The proposed modest development would not contradict this objective. It would improve usability and support small business activity. The site has a mixed-use urban context where there are many commercial units. The design acknowledges the transitional nature of the location, balancing the needs of an active street frontage with respect for nearby residential units.
- The proposed canopy/terrace would be modest in scale with an occupancy of four tables and eight chairs. It is designed to be visually lightweight and transparent, ensuring that it does not intrude upon or dominate the townscape. Rather than disrupting the established building line, the structure would enhance the frontage, offering better enclosure and weather protection for patrons without detracting from the visual character of the area.
- The solid colour screens below 1100 millimetres are proposed to allow for some privacy for patrons of the restaurant when they are availing of the all-weather seating area. The glazed sections above would allow for unobstructed views out to North Circular Road and for permeability between passers-by and patrons of the restaurant.
- The proposal supports the broader goal of creating vibrant, active street frontages in urban areas, contributing to a lively pedestrian environment. In line with post-Covid adaptations and urban place-making policies, such modest

interventions allow for improved functionality without undermining residential amenity. The enclosed space would help to reduce noise to the apartments.

- The development would not involve a significant intensification of use. No increase in operational hours and no amplified sound systems or entertainment are proposed. Reference was made to the permissions granted by the Council for an all-weather enclosed canopy/terrace system with in-built retractable awning at Les Tapas de Lola, 12 Wexford Street, Dublin 2 **(3435/18)** and for a covered outdoor seating and terrace area at the Asador Restaurant, Percy Place, Haddington Road, Dublin 4 **(4329/22)**.
- Should the Board consider it necessary, the appellant is open to minor amendments such as reducing the height of the screens slightly; ensuring they remain fully transparent; restricting any future advertising on the glazed panels; and installing planters or soft landscaping to soften the street edge visually.

7.2. Planning Authority Response

7.2.1. None

8.0 Assessment

8.1. Issues

8.1.1. Having inspected the site and considered in detail the documentation on file for this First Party appeal, it seems to me that the main planning issues are:

- the effect of the proposed development on the visual amenity of the streetscape;
- its effect on the amenity of nearby residential properties; and
- whether, in the event that permission is granted, a levy for light rail is payable.

8.2. Visual Amenity

8.2.1. The appellant has not disputed that the retractable canopy and the intermittent use of land to the front of the restaurant as a seating area do not have the benefit of planning permission and are unauthorised. The current application seeks permission for a permanent front extension to the building. In assessing the visual impact of the

proposed development, it is necessary to compare the appearance of the site without the canopy and seating area to its appearance with the proposed extension in place.

- 8.2.2. The application site is in a Z1 zoned area where restaurant uses are open for consideration. The existing restaurant within the building has planning permission. The proposed extension would occupy space in the ownership of the appellant in front of and associated with the restaurant. It seems to me that it would thereby fulfil the requirement, set out in Section 15.14.7.2 of the Development Plan, to be fully contained within the site boundary. The extension would improve the functionality of the restaurant and make a modest contribution to the vitality of the area.
- 8.2.3. Section 15.14.2 of the Plan sets out factors to consider when assessing building proposals. These include attractiveness to pedestrians, cyclists, people with disabilities and the elderly. The appellant has demonstrated that the proposed extension would not dislocate pedestrian movement or existing cycle parking. Other factors mentioned include the character of immediately adjacent buildings, the wider scale of development and spaces surrounding the site, and matters such as rhythm, proportions, solid-to-void relationships, degree of uniformity and building lines.
- 8.2.4. The block in which the application site is located has a mix of two- and three-storey buildings. It is finished mainly in red bricks of slightly differing hues. It has a fairly regular pattern of windows, doors and fascia boards and, importantly, a consistent building line. I consider that the construction of a permanent single-storey, slanted-roof, metal-framed front extension protruding from a building in the middle of the block would introduce an anomalous feature and break the building line. It would be detrimental to the visual amenity of the streetscape and the character of the wider area. In my judgement, the negative visual impact of the proposed development would outweigh its contribution to vitality and warrant the withholding of planning permission.

8.3. Residential Amenity

- 8.3.1. Section 15.14.7.2 of the Development Plan requires the potential for noise and general disturbance to be taken into account when considering restaurant proposals. The presence of a restaurant which opens until 10.30pm is bound to generate some noise, especially when patrons are waiting to enter or leaving the building. The to-ing and fro-ing of delivery services is also bound to generate noise. In permitting these uses at this location, the planning authority must have formed the view that they would not

give rise to unacceptable levels of noise. It would have been aware that there are residential units on the upper floors of the building itself and on the adjoining ground floor of No. 296B, as well as in the wider area.

- 8.3.2. In considering whether the proposed extension is likely to add significantly to the potential for noise nuisance and disturbance to neighbouring residents, I discount the existing intermittent seating area as it does not have planning permission. It seems to me that potential for noise generation is dependent on local conditions; comparisons with permissions granted on other sites in Dublin are therefore of little assistance. As no noise impact assessment or technical noise evidence has been submitted by either party, I can only base my consideration on the limited information available. I take into account that no increase in operational hours and no amplified sound systems or entertainment are proposed.
- 8.3.3. According to the proposed ground floor plan, the existing restaurant has an area of 32.6 square metres and the proposed extension would be 10.44 square metres in area, an increase of 32%. Only four tables are shown in the existing restaurant while four similarly sized tables are shown in the proposed extension. That suggests that at times there might be an increase of up to 100% in the number of patrons.
- 8.3.4. The additional patrons would be accommodated in the extended area which would be of relatively lightweight construction, abutted on three sides by the public realm. While the evidence is not conclusive either way, I cannot rule out the possibility that there would be an unacceptable increase in noise affecting nearby living accommodation. Such an outcome would be contrary to the Z1 zoning objective. On the evidence presented, I share the planning authority's concern about residential amenity.

8.4. Light Rail Levy

- 8.4.1. The application site lies within the area to which Dublin City Council's Luas Cross City (St. Stephens Green to Broombridge Line) Supplementary Development Contribution Scheme applies. For commercial/retail development, a contribution of €38 per square metre is payable. None of the exemptions and reductions set out in the scheme apply.

9.0 Appropriate Assessment Screening

9.1. Having considered the nature, location and modest scale of the proposed development, the nature of the receiving environment as a built-up urban area, the nature of the foreseeable emissions therefrom, the availability of public piped services to accommodate the foul effluent arising, the distance from the nearest European site and the absence any known hydrological link between the application site and any European site, I am content on the basis of objective information that the development is not likely to have a significant effect on any European site, either alone or in combination with other plans or projects. I therefore conclude that the carrying out of an appropriate assessment under Section 177V of the Planning and Development Act 2000 is not required.

10.0 Recommendation

10.1. I recommend to the Commission that planning permission be refused.

11.0 Reasons and Considerations

11.1. It is considered that the proposed front extension to the restaurant, which would break the established building line, would be detrimental to the visual amenity of the streetscape and the character of the wider area. It is also considered that there is a risk that the proposed development could lead to an unacceptable increase in noise affecting nearby residential accommodation. Despite making a modest contribution to the vitality of the area, the development would contravene relevant provisions of the Dublin City Development Plan 2022-2028; conflict with the Z1 zoning objective to protect, provide and improve residential amenities; and would not accord with the proper planning and sustainable development of the area.

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.



TREVOR A RUE

Planning Inspector

6th July 2025

Appendix 1 – Form 1: EIA Pre-Screening

Case Reference	322337-25		
Proposed Development Summary	Glazed screens to front of restaurant		
Development Address	296C North Circular Road, Phibsborough, Dublin 7		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "project" means: - The execution of construction works or of other installations or schemes; - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)		Yes	✓
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	✓	Part 2, Class 10(b)(iv)	Proceed to Q3.
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5 of the Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994?			
Yes	✓	2001 Regulations, Schedule 5, Part 2, Class 10(b)(iv)	Proceed to Q4.
4. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
No	✓		Proceed to Q4.
5. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	<i>Threshold: 10 hectares</i> <i>Size of development: 0.127 hectares</i>	Preliminary examination required (Form 2)
6. Has Schedule 7A information been submitted?			
No	✓	Screening determination remains as above (Q1 to Q4).	

Trevor A Rue

TREVOR A RUE

Planning Inspector

6th July 2025

Form 2: EIA Preliminary Examination

Case Reference	322337-25
Proposed Development Summary	<i>Glazed screens to front of restaurant</i>
Development Address	<i>296C North Circular Road, Phibsborough, Dublin 7</i>
This preliminary examination should be read with, and in the light of, the rest of the Inspector's report attached herewith.	
Characteristics of the Proposed Development (in particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health)	<i>The development has a modest footprint, comes forward as a standalone project, does not require demolition works or the use of substantial natural resources. It does not give rise to a significant risk of pollution. The development, by virtue of its type, does not pose a risk of major accident and/or disaster and is not vulnerable to climate change. It presents no risks to human health.</i>
Location of Development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance)	<i>The application site is removed from sensitive natural habitats and designated sites and landscapes of identified significance in the Dublin City Development Plan.</i>
Types and Characteristics of Potential Impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation)	<i>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, the likely limited magnitude and spatial extent of effects and absence of in-combination effects, there is no potential for significant effects on the environmental factors listed in Section 171A of the Planning and Development Act 2000.</i>

Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
<i>There is no real likelihood of significant effects on the environment.</i>	<i>EIA is not required.</i>



TREVOR A RUE

Planning Inspector

6th July 2025