



An
Coimisiún
Pleanála

Inspector's Report

ACP-323087-25

Development

Retention of mural on gable wall visible from Whitworth Road; the alteration of the window on the façade of the property facing Prospect Road; the placing of street furniture including 3 covered picnic benches, planters, board signs and umbrellas facing Prospect Road; the erection of 13 windbreaker screens and associated signage placed along the boundary with facing Prospect Road and Whitworth Road

Location

The Bernard Shaw, Cross Guns Bridge, Drumcondra, Dublin 9, DO9 XW44

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3189/25

Applicant(s)

Liacondar Limited

Type of Application

Permission

Planning Authority Decision

Split Decision

Type of Appeal

First Party

Appellant(s)	Liacondar Limited
Observer(s)	Patricia McKenna
Date of Site Inspection	29 th September 2025
Inspector	Conor Hughes

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1.0 Site Location and Description

- 1.1.** The Bernard Shaw is bar and restaurant at the junction of Prospect Road and Whitworth Road Dublin 9. The land within is comprised of a large building with two floors of accommodation, outdoor seating along the southern and western boundaries and an enclosed beer garden and yard to the east.
- 1.2.** The building is of masonry construction with a smooth render finish, standing seam roof and painted timber windows. The walls have decorative features in the art deco style.
- 1.3.** The boundary to the north is defined by a landscaped embankment to the adjacent rail line, to the east by the boundary wall to an adjacent tennis club and to the western and southern boundaries by the public footpath.

2.0 Proposed Development

- 2.1.** The proposed development consists of the retention of a mural on the eastern gable elevation; the alteration of a window on the western gable elevation used as a servery; the placing of three covered picnic benches, planters, board signs, umbrellas, thirteen windbreaker screens and associated signage on private land adjacent to the bar and behind the footpath on the junction of Prospect Road and Whitworth Road.

3.0 Planning Authority Decision

3.1. Decision

- On 26th June 2025 the Planning Authority issued notification of a split decision. The first part of the decision was to grant retention permission for a mural on the eastern elevation of the subject building as it did not contravene the Development Plan and accorded with the proper planning and sustainable development. The grant of retention permission was subject to the six planning conditions detailed below.
- The second part was a refusal of retention permission for the alteration of a window on the western gable elevation used as a servery; the placing of three

covered picnic benches, planters, board signs, umbrellas, thirteen windbreaker screens and associated signage on private land adjacent to the bar and behind the footpath on the junction of Prospect Road and Whitworth Road for two reasons.

- The first reason stated that the retention of this development would adversely impact the visual amenity of the area, setting of the streetscape and architectural character of the building. The second reason stated the street furniture by reason of its location would have a negative impact on the public footpath and would endanger public safety as an obstruction to road users,
- In both reasons it was specified that the retention of the development would contravene the objectives and policies of the Dublin City Council Development Plan 2022-2028. The Planning Authority also considered the proposal would also set an undesirable precedent for similar development contrary to the proper planning and sustainable development of the area.

3.1.1. Conditions (for the grant of retention permission for the mural)

- The first condition required the development to be retained in accordance with the plans, particulars and specifications lodged with the application.
- The second condition limited the grant of retention permission to five years after which the permission would cease to have effect.
- The third condition required any alterations to the design/colours/materials of the mural to be agreed in writing with the Planning Authority, prior to such alterations being undertaken.
- The fourth condition required all the drainage works to be carried out in accordance with the relevant policy and guidance to ensure the satisfactory management of surface water runoff and flood risk as a result of the development.
- The fifth condition required the developer to comply with the requirements set out in the codes of practice from the Transportation Planning Division and the Noise & Air Pollution Section.

- The sixth condition did not permit any advertisement signs, advertisement structures, banners, canopies, flags, or other projecting element to be displayed or erected on the building or within the curtilage, or attached to the glazing without the prior grant of planning permission.

3.1.2. Planning Authority Reports

- The planning report noted that the proposed development is on land zoned Z3 (Neighbourhood Centres) in the Dublin City Council Development Plan 2022 to 2028 (the Development Plan) and that the zoning objective is to provide for and improve neighbourhood facilities. The site is opposite to the Royal Canal which is a conservation area.
- It was identified that the development may be permitted in principle subject to consideration of the policies and objectives for the zoning and being consistent with the proper planning and sustainable development of the area.
- Consideration was given to the requirements of the Development Management Standards at Section 15.14.12 and 15.17.4 of the Development Plan.
- The Planning Authority estimated the seating area was substantial in size and could accommodate approximately 70 people. Whilst acknowledging that the planting went some way to screen the seating area it was considered to have an adverse visual impact on the character of the streetscape due to its visual prominence at a road junction and proximity to the Royal Canal Conservation Area. It was also considered to be an unsympathetic and incongruous to the setting of a building recorded in the National Inventory of Architectural Heritage (NIAH).
- The Planning Authority stated that the alteration to the window may have been exempted development during COVID to facilitate the operation of the business safely but this exemption expired on 31st March 2022. The Planning Authority considered the insertion of a glazed serving hatch materially and negatively impacted on the external appearance of the structure contrary to policies BHA4 and BHA11(b) of the Development Plan.

- The mural was assessed to provide colour and vibrancy and given views were primarily restricted to the east it would not detract from the visual amenity of the area. The Planning Authority considered it would add to the visual interest of the place including those passing by on trains or walking along the canal. The Planning Authority further considered the public art to be in accordance with Section 12.5.7 of the Development Plan and that its retention was agreed on a temporary basis having regard to the submitted observations of a number of third-parties.
- No loss of residential amenity was identified by the Planning Authority as the site was bounded by a road on two sides and a rail line and tennis club on the other two sides. In the absence of any sensitive receptors and having taken advice from the Air Quality Monitoring & Noise Control Unit of the Council the Planning Authority considered any noise impact could be controlled by condition.
- The Planning Authority agreed with the advice of the Transport Planning Division and that the retention of the street furniture on the junction of Prospect Road and Whitworth Road impacted adversely on 'access and visibility' contrary to Section 15.17.4 of the Development Plan.

3.1.3 Other Technical Reports

- Transport Planning Division: Objected as the site is located in an area of moderate to high pedestrian activity and the street furniture led to a reduction in the available unobstructed footpath widths. This impacts on pedestrian flows for more vulnerable road users such as those with mobility impairment and/or disabilities, older persons and people with children in particular was recognised. This was contrary to DMURS and policies SMT11 and SMT18 of the Dublin City Council Development Plan 2022 to 2028.
- Air Quality Monitoring & Noise Control Unit: No objection in principle to the proposed developments subject to conditions restricting noise levels for loudspeaker announcements, music or other noise emanating from the premises and control of the hours of operation of the outdoor areas.

- Engineering Department – Drainage Division: No objection subject to a condition requiring the private drainage to be located within the site boundary.

3.3. Prescribed Bodies

- National Transport Authority (NTA) Core Bus Corridor team (the advice is contained in the body of the Transport Planning Division response) – the land on which the street furniture is located is subject to a Compulsory Purchase Order (CPO) and that a ‘Notice to Enter’ is anticipated in early 2026. The NTA had no objection to the retention of the seating on the land subject to CPO as long as a condition requiring the planning applicant to consult with the NTA was part of the decision.
- Transport Infrastructure Ireland – the site falls within a Section 49 Contribution Scheme Levy for light rail. If this proposal is not exempt from the scheme and acceptable then a condition is recommended to secure a contribution.
- Irish Rail – Nil Response
- Irish Water – Nil Response

3.4. Third Party Observations

- Four observations were received in objection to the proposed retention of the street furniture, means of enclosure and signage on the junction of Prospect Road and Whitworth Road. All the third parties agreed that this harmed the visual amenity and character of a building which is on the NIAH register. They also agreed that the street furniture, means of enclosure and signage added visual clutter in the streetscape which harmed the wider character of the area. One of the observers framed their concerns in respect of the impact on the building in the context of policy BHA4 of the Development Plan.
- Three of the third parties objected to the retention of the servery window which was inserted into the fenestration in response to COVID restrictions. They considered the use to be redundant and its retention to impact adversely on the character of the building.

- None of the third parties objected to the mural. One of the third parties referred to it as helping to create a sense of place. This observer further stated it was reversible and did not result in the destruction of any special architectural character of the building. They noted that parts of the mural had deteriorated due to poor maintenance and as a consequence it's retention should be time limited to three years to protect the architectural integrity of the building. If deemed acceptable they also suggested a condition was required to preclude any commercial advertisement. Another observer indicated the retention of the mural should be time limited to two years.
- Two third parties raised other issues outside of the scope of this planning application. The operation of a food court from the yard at the rear of the building has caused a bin store to be relocated to a loading bay adjacent to the footpath on Whitworth Road. This meant vehicles servicing the bar and restaurant were obstructing the footpath on Whitworth Road.
- One third party raised a concern about a condition of an earlier planning permission for an escape route from the raised decking onto Whitworth Road being blocked by seating.

4.0 Planning History

4.1. Appeal site

- Planning Authority Reference 0335/22 – whether the erection of signage on the façade of the property facing Whitworth Road; the alteration to the façade of the property facing Prospect Road and provision of a point of sale for takeaway items; the installation of a trailer and structure on the area facing Prospect Road; the provision of 3 No. covered picnic benches, 8 No. picnic bench style seating, and street furniture consisting of planters and sandwich board signs on the area facing Prospect Road; and the erection of 15 No. windbreaker screens with signage placed along the boundary facing Prospect Road and Whitworth Road was exempted development – Determination: Not Exempted Development (on appeal ABP-315281-22).

- Planning Authority Reference 2981/03 – permission sought for the alterations to previously approved permissions (Nos. 1025/01 and 1859/02) for permanent retention and completion of (a) roof light and yard wall, (b) construction of new boardwalk to Whitworth Road, (c) reconfiguration and extension of under yard basement, (d) provision of designated toilets at second floor for previously approved first floor dining and (e) provision of disabled access lift to ground and first floors with associated elevational changes. Minor amendments to ground floor layout – Decision: permission granted (on appeal PL29N.204256).
- Planning Authority Reference 1025/01 – permission sought for change of use from existing retail/warehouse use to licensed cafe/lounge/bistro with associated ancillaries consisting of public toilets, kitchen, stores and fire escape stairs, all at ground floor; change of use from existing offices/storage to licensed restaurant/bistro use with associated ancillaries consisting of kitchen, staff facilities, stores and fire escape stairs, all at first floor level; external work to include provision of car parking and associated landscaping works; alterations to existing elevations to include new signage and replacement of existing roof; and conservation of stand-alone retail stores to ancillary storage and cold room – Decision: Permission Granted.

5.0 Policy Context

5.1. Development Plan

- The Dublin City Development Plan 2022-2028 (the Development Plan) is the relevant plan for the area and the site zoned as Land Use Zoning Objective Z3 – Neighbourhood Centre.
- It is stated in Section 14.7.3 that Neighbourhood Centres:
provide local facilities such as convenience shops, hairdressers, post offices etc. within a residential neighbourhood and range from the traditional parade of shops to larger neighbourhood centres. They may be anchored by a supermarket-type development, typically of between 1,000 sq. m. and 2,500 sq. m. of net retail floorspace. They can form a focal point for a neighbourhood and provide a range of services to the local population. Neighbourhood centres

provide an essential and sustainable amenity for residential areas and it is important that they should be maintained and strengthened, where appropriate. Neighbourhood centres may include an element of housing, particularly at higher densities, and above ground floor level.

- The building is registered as 50130199 on the National Inventory of Architectural Heritage. It is stated in policy BHA4:

(Ministerial Recommendation) To have regard to the National Inventory of Architectural Heritage (NIAH) rating of a structure and any associated Ministerial Recommendation in the assessment of planning applications.

- Policy BHA11 - Rehabilitation and Reuse of Existing Older Buildings states:

(a) To retain, where appropriate, and encourage the rehabilitation and suitable adaptive reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of the area and streetscape, in preference to their demolition and redevelopment.

(b) Encourage the retention and/or reinstatement of original fabric of our historic building stock such as windows, doors, roof coverings, shopfronts (including signage and associated features), pub fronts and other significant features.

(c) Ensure that appropriate materials are used to carry out any repairs to the historic fabric.

- The Royal Canal opposite the site is zoned as a 'red hatched' conservation area. It is stated in policy BHA9 that:

To protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Enhancement opportunities may include:

- 1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.*
 - 2. Re-instatement of missing architectural detail or important features.*
 - 3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.*
 - 4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.*
 - 5. The repair and retention of shop and pub fronts of architectural interest.*
 - 6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.*
 - 7. The return of buildings to residential use. Changes of use will be acceptable where in compliance with the zoning objectives and where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications, and will promote compatible uses which ensure future long-term viability.*
- The retention of a mural is proposed. Section 12.5.7 of the Development Plan states:

A key part of cultural expression in the public domain is the use of public art and sculpture installations, whether permanent or temporary. Public art encompasses a wide range of artistic expression including the commissioning of permanent work as well as temporary work such as performance artforms (music, drama, and dance) and other artforms such as film, literature, etc. Permanent work does not have to be sculptural and there are excellent examples of interventions both by the City Council and private developers which exemplify different approaches to public art commissioning. Dublin City has a successful record of adding new public art and sculpture that enhances the historic fabric of the city. The Council will seek to extend and grow the role of the public domain as a cultural space, including new commissions and requiring new spaces and installations as part of large scale development. Alongside this, there is a need to value existing works, through initiatives such

as creating a sculpture trail for the city. The Council will also endeavour to participate in the Percent for Arts programme at all opportunities where it is applicable.

- It is stated at Section 15.17.3 – Public Art that:

Public art can make a positive contribution to the cultural identity and visual appearance of an area and can be utilised to identify historic events and features adding to the quality and engagement of the public realm. The provision of artwork on hoarding will also be supported in accordance with the requirements as set out below. New public artwork should integrate with its immediate location and the context of the surrounding environment. Proposals for public artwork should:

- *Consider scale, form and impact on the public realm, pedestrians and road users.*
- *Illustrate a comprehensive understanding of site considerations, and the physical, social, historical, topographical and architectural context.*
- *Provide for the highest aesthetic quality in terms of materials and finishes with low maintenance value.*
- *Engage with the local community to enhance social relevance and significance.*

- In respect of the retention of the outdoor seating it is stated at Section 15.17.4 – Outdoor Seating and Street Furniture that:

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. These elements include newspaper stands, telephone kiosks, traffic and bus signs etc.

It is an objective of Dublin City Council to control the location and quality of these structures in the interests of creating a high-quality public domain. All street furniture provided by private operators including retailers, publicans and restaurateurs, etc., and utility companies should be to the highest quality, preferably of good contemporary design avoiding poor historic imitation and

respect the overall character of the area and quality of the public realm and be so located to prevent any obstruction or clutter of all footpaths and paved areas including landings.

In this regard, street furniture requires either a licence under Section 254 of the Planning and Development Act, 2000 (as amended) or planning permission (including street furniture erected on private lands). In both instances, the applicant is required to submit details of the location, design, specification and quality of the proposed elements of street furniture. Details of maintenance and cleansing schedules, together with a certificate of structural stability, may also be required. Street furniture should be designed to be accessible to disabled persons where possible.

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.*
- In respect of the impact of users of the pedestrian footpaths in the general vicinity of the site policy SMT11 – Pedestrian Networks states that:

To protect, improve and expand on the pedestrian network, linking key public buildings, shopping streets, public transport points and tourist and recreational attractions whilst ensuring accessibility for all, including people with mobility impairment and/or disabilities, older persons and people with children.
- It is further stated in policy SMT18 – The Pedestrian Environment that:

To continue to maintain and improve the pedestrian environment and strengthen permeability by promoting the development of a network of

pedestrian routes including laneway connections which link residential areas with recreational, educational and employment destinations to create a pedestrian environment that is safe, accessible to all in accordance with best accessibility practice.

5.2. Other Relevant Guidance

- Section 4.3 of the Design Manual for Urban Roads and Streets 2019 (Version 1.1) (DMURS) provides guidelines for the Pedestrian and Cyclist Environment. It states that:

Minimum footway widths are based on the space needed for two wheelchairs to pass each other (1.8m). In densely populated areas and along busier streets, additional width must be provided to allow people to pass each other in larger groups. In this regard:

- *The width of footways should increase from Suburbs (lower activity), to Neighbourhood (moderate activity) and to Centres (higher activity) and as development densities increase.*
- *The width of footways should increase according to function from Local (lower activity), Link (moderate activity), to Arterial streets (moderate to higher activity) as connectivity levels increase.*
- *The footway should be maintained at a consistent width between junctions and should not be narrowed to accommodate turning vehicles.*

Figure 4.34 illustrates the space needed for pedestrians to comfortably pass each other with reference to the anticipated levels of activity within a street. These standards should be used to formulate the minimum footway widths.

5.3. Natural Heritage Designations

5.3.1 The site is located approximately:

- 7.5 kilometres northwest of the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA:004024)
- 7.5 kilometres northwest of the South Dublin Bay Special Area of Conservation (SAC:000210)

- 6.8 kilometres southwest of the North Bull Island Special Protection Area (SPA:004006)
- 6.8 kilometres southwest of the North Dublin Bay Special Area of Conservation (SAC:000208)

6.0 EIA Screening

- 6.1.** The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal

- Knapton Consulting Engineers acting for Liacondar Limited have appealed the split decision of Dublin City Council to grant retention permission for the mural and refuse retention permission for balance of the proposal. The grounds of the appeal can be summarised as follows:

Refusal Reason 1

- In respect of the concerns about the visual impact and impact on the architectural character of the building the altered window in the façade on the western elevation and the street furniture, means of enclosure and signage does not detract from the architectural integrity of the building and has been designed to enhance the vibrancy and contribute positively to the local urban environment.
- The appellant considers the altered window maintains the style of the existing windows by the use of high-quality materials, similar paint colour, and quality workmanship. It is argued that the alteration blends in with the surrounding environment and adds a functionality consistent with the evolving character of

the area. Consequently, it has no impact on the building or the surrounding streetscape.

- The appellant highlights that the signage has been removed addressing the concern of 'visual clutter'. It is then argued that the balance of the development comprised of the wind breaker screens, picnic benches and covered benches are high quality and painted to match the colour of the façade and ensuring they are keeping with the unique character of the building. It is further argued that this enhances the presence of the building on the street thereby contributing positively to the surrounding streetscape.
- The appellant considers that the street furniture and means of enclosure are in accordance with Section 15.17.4 of the Development Plan and that the Planning Authority did not give proper and full consideration to the requirements of this guidance.
- The appellant highlights that the area in which the street furniture and means of enclosure are located is subject to a CPO for the Ballymun/Finglas to City Centre Core Bus Corridor Scheme. As a 'Notice to Treat' letter is anticipated in early 2026 the appellant is willing to accept retention for a temporary but unspecified period.

Refusal Reason 2

- The appellant acknowledges the importance of pedestrian safety and the need to maintain clear unobstructed footpaths in their appeal statement. It is argued that the Planning Authority misunderstands the impact of the outdoor seating area on the surrounding pedestrian footpath network.
- It is stated that the outdoor seating and windbreaker screens were designed with pedestrian circulation in mind and installed to allow sufficient clearance so as to not obstruct or clutter the area between the inner and outer kerb line of the footpath. It is highlighted that the footpath is a minimum of 2.0 metres in the area and that there are no pinch points. The appellant considers the requirements of policies SMT11 and SMT18 of the Development Plan to have been met.

- Notwithstanding the argument that the requirement of policy is considered to be met the appellant offers to move the windbreakers back so that a minimum footpath width of 2.5 metres is achieved which is consistent with the guidance in DMURS.

The question of precedence

- The appellant argues that this proposal should be considered on its own merits and that it does set an undesirable precedent for similar development elsewhere. The use, visual impact and relationship of the outdoor seating area to the footpath are all site-specific issues that are not easily replicated elsewhere.

The Grant of Retention Permission for the Mural

- The appellant makes no comment on the planning conditions attached to the Grant of Retention Permission for the Mural in their appeal submission.

7.2. Planning Authority Response

- None

7.3. Observations

- The third party refers to her previous observations and confirms that they still apply.
- It is suggested that this is one of only a few Art Deco buildings surviving in Dublin and whilst not a protected structure care is required not to harm the character of the important features of a building on the NIAH register.
- The observation is that the alteration to the western façade with the insertion of a window and placement of street furniture in front has an adverse visual impact and harms the character of the building.
- The third party also argues that the means of enclosure for the street furniture close to a busy junction with traffic makes it difficult for pedestrians with buggies and children or disabled people to navigate the crossing. It is emphasised that the site is on a pedestrian route to the National Council for the Blind of Ireland and visually impaired people use this route frequently.

8.0 Assessment

8.1. Having examined the application details and all the other documentation on file, including the submission received to appeal, the reports of the local authority, and having inspected the site, and having regards to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered as follows:

- The principle of development
- The impact of the street furniture, enclosures and signage on the visual amenity and character of the area
- The impact on the setting of the building and the conservation area
- The retention of the mural as 'Public Art'
- Pedestrian safety and Public Realm
- Other considerations

The principle of development

8.2. The site is on land zoned Z3 (Neighbourhood Centres) of the Dublin City Council Development Plan 2022 to 2028 (the Development Plan) and that the zoning objective is to provide for and improve neighbourhood facilities.

8.3. I concur with the assessment of the Planning Authority that the range of development proposed for retention is acceptable in principle subject to being in accordance with the requirements of the policies and objectives of the zoning and consistent with the proper planning and sustainable development of the area.

The impact of the street furniture, means of enclosure and signage on the visual amenity and character of the area

8.4. It is stated at Section 15.17.4 for Outdoor Seating and Street Furniture that certain uses in the public realm, including elements of street furniture, can lead to problems of visual clutter.

8.5. I visited the site on a Monday morning which happened to coincide with an event that had occurred over the previous weekend. I noted that the covered booths had

been moved to the boundary, a portable toilet block had been installed and signage erected advertising the event.

- 8.6.** The space in front of the main entrance to the bar was visually cluttered with furniture, planters with dead or dying hedgerow, a portable building and advertising panels.
- 8.7.** I noted there were small discrete areas on the deck access to the building on Whitworth Road and a larger area of outdoor seating within an enclosed courtyard to the rear the eastern gable elevation. There appeared from my observations to be adequate outdoor space for people using the bar and restaurant without the need a third area in front of the main entrance.
- 8.8.** In the grounds of appeal the appellant advises that the removal of signage from the windbreakers and within the enclosed space addresses the concern of visual clutter at the junction of Prospect Road and Whitworth Road.
- 8.9.** Even without the signage I am not persuaded that the requirements of Section 15.17.4 of the Development Plan are still met.
- 8.10.** It is stated in the guidance that the street furniture provided by private operators including publicans and restaurateurs, should be to the highest quality. Painted timber park benches and barrels (although durable in an urban setting) are not in my opinion high-quality furniture or examples of good contemporary design.
- 8.11.** This site is highly visible on a road junction, has a building of significant architectural interest located within and is opposite the Royal Canal Conservation Area.
- 8.12.** It is my observation and having regard to the size and location of the facility, the visual impact of the furniture, particularly in relation to its form, style and colour and extent of advertising on the ancillary screens that the three covered picnic benches, planters, board signs, umbrellas, thirteen windbreaker screens and associated signage add to the visual clutter in the streetscape.
- 8.13.** I agree with the Planning Authority and the third-party observers that retention of the street furniture, means of enclosure to the space and signage described in the preceding paragraph is contrary to Section 15.17.4 of the Development Plan.

The impact on the setting of the building and the conservation area

- 8.14.** This building is recorded on the National Inventory of Architectural Heritage (Registration No.50130199) and appraised as:

‘Prominently located at Crossguns Bridge, this unusual building was erected about 1930 as a garage, but served as the headquarters of Ireland's first commercial airline, Iona Airways, which operated between 1931 and 1995. The enterprise was started here by the entrepreneur, Hugh Cahill, who initially had a motor company. Aircraft were serviced here, although the aerodrome was located three miles (5km) away at Kildonan House. The building was converted to a public house in 2004 and although it has undergone substantial changes with its new use, including replacement of the original banded render with glazed tiles, it retains its original form and massing, and linear detailing typical of its period. It is of interest as early infrastructure associated with air travel in Ireland.’

- 8.15.** It is a requirement of policy BHA4 that the rating of the structure is taken into account in the assessment of a planning application. I note the record describes the building is significantly altered but retains its original scale, massing and linear detailing typical of the period. It is also of historical interest.
- 8.16.** I agree with the Planning Authority and the third-party observers that this building is of sufficient interest to be taken account in the assessment of the appeal and that policy BHA11 is a relevant policy.
- 8.17.** Criteria (b) of policy BHA11 encourages the retention and/or reinstatement of original fabric of our historic building stock such as windows, doors, roof coverings, shopfronts (including signage and associated features), pub fronts and other significant features.
- 8.18.** A sympathetic conversion of this building was carried out between 2001 and 2004. There is symmetry in the pattern of fenestration on the western gable elevation (the main entrance) on the junction of Prospect Road and Whitworth Road.
- 8.19.** The insertion of a servery window into this elevation harms the character of the building by interrupting the symmetry of the fenestration. Its use is also linked to the use of the outside enclosed space and cumulatively both harm the visual amenity of the area. I agree with the Planning Authority and third-party observers

that this part of the development is contrary to criteria (b) of policy BHA11 of the Development Plan.

- 8.20.** The Royal Canal is opposite the site and zoned as a 'red hatched' conservation area. It is stated in policy BHA9 that development affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.
- 8.21.** It is further stated that there are seven types of enhancement opportunity and I consider this proposal fails to protect the entrance to an important building of architectural interest which detracts from the setting of the Royal Canal Conservation Area. For this reason, I consider the proposal is also contrary to the requirements of policy BHA9 of the Development Plan.

The retention of the mural as 'Public Art'

- 8.22.** Neither the Planning Authority nor any of the third parties object to the retention of the 'Peter Fonda' mural. It is stated at Section 15.17.13 that public art can make a positive contribution to the cultural identity and visual appearance of an area and engagement of the public realm.
- 8.23.** Having visited the site I agree that this mural makes a positive contribution to the identity of the neighbourhood centre and the visual identity of Whitworth Road. It signposts the building on a key node and its retention should be granted retention permission.
- 8.24.** I observed at the site visit that there were parts of the plaster on which the mural was painted had flaked and fallen off. Poor maintenance detracts from the positive contribution the mural makes to the visual appearance of the area.
- 8.25.** Two of the third-parties indicated that the mural should only be retained for a temporary period of two to three years. The Council attached a condition allowing the mural to be retained for five years. This is too long given the condition of the mural and if the Commission is minded to accept my recommendation it should be for a temporary period of two years.
- 8.26.** The Planning Authority attached other conditions to the grant of retention permission that are not related to the development. If the Commission is minded

to accept my recommendation no drainage standards or codes of practice for transport or noise and air pollution should be attached.

Pedestrian safety and Public Realm

- 8.27.** The grounds of appeal cite that there is more that there is more than 2.0 metres between the inner edge and outer kerb line of the footpath on the junction of Prospect Road and Whitworth Road and that this is more than the minimum requirements of 1.8 metres in DMURS.
- 8.28.** The Transport Planning Division of the Council state the footpath widths are as low as 1.5 metres when measured of the submitted plans which is less that the minimum requirement of 1.8 metres in DMURS. They highlight that the T-junction comprises two no. arms signalised crossing that are often busy. The indicate where queuing occurs the retained means of enclosure and street furniture impacts adversely on pedestrian movements.
- 8.29.** The third parties also observe that the footpath is not wide enough at the junction to accommodate the needs of families with buggies or elderly and disabled people.
- 8.30.** In respect of the issue of whether the junction of Prospect Road and Whitworth Road is a safe pedestrian environment accessible to all I accept the windbreakers and street furniture are on private land and do not obstruct the public footpath. I also acknowledge that the appellant in their grounds of appeal measure the space between the windbreakers and the traffic lights and other road signage as approximately 2 metres which is more than the minimum standard of 1.8 metres in DMURS for low activity areas.
- 8.31.** I note the comment of the Transport Planning Division that when the crossings are busy and queuing occurs there is limited opportunity for other pedestrians to move around the junction. In this respect I further note that DMURS recommends a minimum space of 3.0 metres for small groups to pass comfortably in location of moderate to high pedestrian activity. Without the windbreakers pedestrians traditionally could step onto the private land and avoid the queues at the junction. With this choice removed this is to the detriment of the pedestrian environment particularly at the junction of Prospect Road and Whitworth Road where the crossings are located.

8.32. Notwithstanding the argument the appellant makes that the requirement of policy is considered to be met they also offer to move the windbreakers back so that a minimum footpath width of 2.5 metres is achieved. I accept this change would improve the pedestrian environment and bring it into line with the minimum requirement in DMURS for desirable space for two people to pass comfortably where there is moderate to high pedestrian activity. However, this does not in my opinion make the junction more accessible to people traversing the footpath with children and buggies and for disabled users.

8.33. Whilst this issue is finely balanced given this is a zoned neighbourhood centre where the private land in front of the Bernard Shaw was traditionally accessible to pedestrians traversing the junction of Prospect Road and Whitworth Road I consider the concerns of Planning Authority based on the advice of the Transport Planning Division to be well founded. I agree that the requirements of policies SMT11 and SMT18 which are designed to protect, improve and expand on the pedestrian network and provide a pedestrian environment that is safe, accessible to all in accordance with best accessibility practice are not met by the retention of street furniture and associated means of enclosure. I concur with the Planning Authority that this is a hazard and has the potential to endanger public safety. It will set an undesirable precedent for similar development and is contrary to the sustainable development of the area.

Other considerations

8.34. The appellant highlights a 'Notice to Enter' into a CPO is pending for private land on the junction of Prospect Road and Whitworth Road. They have requested consideration to be given to the retention of the development (other than the mural) for a temporary period until the CPO is completed. I am not minded to recommend this to the Commission as the same advice contained in my assessment above applies to a temporary period.

9.0 AA Screening

9.1. I have considered the proposed development in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended.

The subject site is located approximately 7.5 kilometres northwest of the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA:004024) and South Dublin Bay Special Area of Conservation (SAC:000210); and 6.8 kilometres southwest of the North Bull Island Special Protection Area (SPA:004006) and the North Dublin Bay Special Area of Conservation (SAC:000208).

The proposed development is comprised of the retention of a mural on the eastern gable elevation; the alteration of a window on the western gable elevation used as a servery; the placing of three covered picnic benches, planters, board signs, umbrellas, thirteen windbreaker screens and associated signage on private land adjacent to the bar and behind the footpath on the junction of Prospect Road and Whitworth Road.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- The site in an established mixed use commercial and residential area and the scale of the proposed development which is ancillary development to an established commercial use.
- The distance to the identified European sites and the lack of connection.
- Taking into account the screening determination by the Planning Authority.

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (Stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Water Frame Directive

10.1. The subject site is located approximately one-kilometre south of the River Tolka and approximately 50 metres north of the Royal Canal.

The proposed development is comprised of the retention of a mural on the eastern gable elevation; the alteration of a window on the western gable elevation used as a servery; the placing of three covered picnic benches, planters, board signs, umbrellas, thirteen windbreaker screens and associated signage on private land adjacent to the bar and behind the footpath on the junction of Prospect Road and Whitworth Road.

No water deterioration concerns were raised in the planning appeal.

I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies wither qualitatively or quantitatively.

The reason for this conclusion is as follows:

- The location of the site in an established mixed use commercial and residential area, the scale of the proposed development which is ancillary development to an established commercial use. Sustainable Urban Drainage can be used as mitigation and reduce the impact of surface/storm water entering the drainage network but is unlikely to be required in this case.
- The distance to the nearest water bodies and the lack of hydrological connection.

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively

or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1. I recommend a split decision and that retention permission is granted for the mural and that the balance of the development proposed for retention is refused for the reasons and considerations as set out below.

12.0 Reasons and Considerations (1)

12.1. The retention of the mural is public art that makes a positive contribution to the cultural identity and visual appearance of an area and would be in compliance with the policies and objectives or Section 15.17.13 of the Dublin City Development Plan 2022-2028 and would accord with the proper planning and sustainable development of the area, subject to the following conditions:

1. Insofar as the Planning & Development Act 2000 (as amended) and the Regulations made thereunder are concerned the development shall be retained in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto. For the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices.

Reason: To comply with permission regulations

2. This retention permission is granted for a limited period of two years from the date of this grant, at which date the permission shall cease unless a further retention permission is granted on or before that date.

Reason: In the interest of the proper planning and sustainable development of the area.

3. Any alterations to the design/colours/materials of the mural during the term of the permission are to be agreed in writing with the Planning Authority, prior to such alterations being undertaken.

Reason: In the interest of the visual amenity of the area.

4. Notwithstanding the provisions of the Planning & Development Regulations 2001 (as amended), no advertisement signs (including any signs installed to be visible through the windows); advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on the building or within the curtilage, or attached to the glazing without the prior grant of planning permission.

Reason: In the interests of visual amenity.

Reasons and Considerations (2)

12.2. That permission be refused for retention of mural on gable wall visible from Whitworth Road; the alteration of the window on the façade of the property facing Prospect Road; the placing of street furniture including 3 covered picnic benches, planters, board signs and umbrellas facing Prospect Road; the erection of 13 windbreaker screens and associated signage placed along the boundary with facing Prospect Road and Whitworth Road, for the reasons and considerations set out below:

1. The proposal to retain the outdoor seating area, windbreaker screens, associated signage and altered window, has an adverse visual impact on the setting of the streetscape, the architectural character of the building and the setting of the Royal Canal Conservation Area in contravention of Section 15.17.4 'Outdoor Seating and Street Furniture', Policy BHA11 (b) 'Rehabilitation and Reuse of Existing Older Buildings' and Policy BHA9 'Conservations Areas' of the Dublin City Development Plan 20222 - 2028, setting an undesirable precedent and would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed street furniture by reason of its location and area would have an adverse impact on the public footpath, impacting on access for all, the pedestrian desire line, creating pedestrian pinch points, and queuing and

would be contrary to DMURS, policies SMT11 'Pedestrian Network' and SMT18 'The Pedestrian Environment', which aims to maintain, protect, improve and expand the pedestrian network, strengthen permeability and ensuring accessibility for all. The development would endanger public safety by reason of traffic hazard or obstruction of road users, and set an undesirable precedent for further similar development in the area. The proposed development would, therefore, be contrary to 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.

Conor Hughes
Planning Inspector

15th October 2025

Appendix A: Form 1 EIA Pre-Screening

Case Reference	ACP-323087-25
Proposed Development Summary	Retention of a mural on the eastern gable elevation; the alteration of a window on the western gable elevation used as a servery; the placing of three covered picnic benches, planters, board signs, umbrellas, thirteen windbreaker screens and associated signage on private land adjacent to the bar and behind the footpath on the junction of Prospect Road and Whitworth Road.
Development Address	The Bernard Shaw, Cross Guns Bridge, Drumcondra, Dublin 9, DO9 XW44
IN ALL CASES CHECK BOX /OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA? <hr/> (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)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <div style="border: 1px solid black; height: 200px; width: 100%;"></div>
2. Is the proposed development of a CLASS specified in <u>Part 1</u>, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1 . EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here <div style="border: 1px solid black; height: 150px; width: 100%;"></div>
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	

3. Is the proposed development of a CLASS specified in <u>Part 2</u>, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	State the Class and state the relevant threshold
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	State the Class and state the relevant threshold
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	

Inspector: _____

Date: 15th October 2025