



Development

(i) Change of use from commercial premises to restaurant/bar with ancillary entertainment use; (ii) demolition of existing staircase and provision of replacement fire exit staircase; (iii) provision of new fire exit/entrance doors; (iv) and all other associated works necessary to facilitate the change of use.

Location

7, Johnson's Court, Dublin 2, D02
K799

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

WEB2230/25

Applicant(s)

Paul Sheeran.

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Paul Sheeran

Observer(s)

John Appleby

Date of Site Inspection

15th January 2026

Inspector

Patricia Byrne

1.0 Site Location and Description

- 1.1. The appeal site relates to No. 7 Johnson's Court Dublin 2. Johnson's Court, a narrow pedestrian route, aligns broadly east-west and connects Grafton Street and Clarendon Street. St. Teresa's Carmelite Church occupies a large block to the western end, while the secondary shopfronts of retail units which front Grafton Street are located to the east. A side entrance to Bewley's café also opens onto the route. Retail units are positioned to the southern boundary approaching the junction with Clarendon Street, as is an entrance to the Westbury Mall which adjoins the appeal site. The lane is relatively short in length extending to c. 75.0m and its narrow width relative to the height of buildings which flank it, creates a sense of enclosure. Decorative string lighting runs lengthways overhead.
- 1.2. The appeal site relates to Paul Sheeran Jewellers. The property is three-storey over basement with a retailing function provided at ground level and ancillary support accommodation overhead. The basement is of limited area/head height and is used for storage. The entrance on Johnson's Court is deeply recessed with window display areas running either side, perpendicular to the street and turn the corner into the Westbury Mall where the unit also has a shopfront. The shopfront design to Johnson's Court comprises individual lettering on a smooth stone façade. Shuttering is recessed. The Westbury Mall elevation and shopfront is in a single storey flat-roofed format, projecting forward of the building and also finished in smooth stone with signage portrayed in individual lettering.
- 1.3. The gross floor area of the property is stated as 442sq.m.

2.0 Proposed Development

- 2.1. The application provides for a change of use from commercial to restaurant/bar use. An unspecified ancillary entertainment use is also proposed.
- 2.2. In addition to the change of use, it is proposed to remove the recessed entrance, staircases and display windows to accommodate a new fire escape stairs. Internal fit out to support the change of use is proposed, including removal of partitions.

- 2.3. Floor plans indicate the use of the basement as a bar storage area with the ground floor (current retail floor space) changing to a bar/restaurant. The first floor will also accommodate floorspace and customer toilets while the second floor will house the kitchens and staff areas.
- 2.4. No changes are proposed to the Westbury Mall elevation.

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.2. Dublin City Council, by Order dated 24th July 2025 refused permission for the subject development for 1 no. reason set out below:

Reason

The proposed loss of retail and the creation of restaurant is contrary to Policy CCUV28 of the Dublin City Development Plan 2022-2028 and Policy 3 of the South Retail Quarter ACA which seeks to achieve an appropriate mix and balance of uses in the retail core by promoting higher order comparison retail outlets, to provide for a high-quality shopping area. The proposed change of use will remove this opportunity and will not support Johnson's Court as a shopping character area as identified in figure 4 of the retail strategy. The proposed change of use from retail to restaurant would dilute/erode the identity of the immediate area, would not contribute positively to the character and distinctiveness of this street within an ACA and would therefore be contrary to policy BHA7 of the Dublin City Development Plan 2022-2028. The proposed development would create an undesirable precedent for similar type development and would therefore be contrary to the provisions of the Dublin City Development Plan 2022-2028, the South City Retail Quarter ACA and the proper planning and sustainable development of the area.

3.3. **Planning Authority Reports**

3.3.1. Planning Report

- 3.3.2. The planning report considers the compatibility of the proposal with the 'Z5 City Centre' land use zoning objective which pertains, acknowledging also the location of the unit within the South City Retail Quarter Architectural Conservation Area (ACA) and the categorisation of Johnson's Court as a Category 2 Shopping Street. The scheme was assessed against relevant policies of the Dublin City Development Plan 2022-2028, including those relating to Retail, Development Management Standards and ACA requirements. In acknowledging the requirements of Policy CCUV28 and Policy 3 of the South City Retail Quarter ACA, the report found that the change of use to restaurant/bar with resultant loss of retail floorspace would dilute/erode the identity of the area and fail to contribute positively to the character and distinctiveness of Johnson's Court. By extension, the development was also considered to be contrary to Policy BHA7 which prescribes measures to protect Architectural Conservation Areas and would have therefore set an undesirable precedent.
- 3.3.3. The report noted the absence of bin storage areas but did not otherwise comment upon the physical works proposed to the structure, including those relating to fire access arrangements, shopfront design or associated ventilation requirements.
- 3.3.4. The Decision of the Planning Authority made on the 24th July 2025 is reflective of the recommendation in the Planning report.

3.3.5. **Other Technical Reports**

3.3.5.1. Drainage Division

The report indicated no objection to the development, subject to the development complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

3.3.5.2. Transportation Planning

The report stipulated a planning condition requiring that a detailed servicing and access management plan be agreed prior to occupation. Details of service vehicles; intended servicing locations and routes (including swept path analysis where appropriate); together with measures to mitigate potential conflicts were stipulated.

All costs to be incurred by the City Council, including repairs to the public road and services as a result of the development to be borne by the developer.

Note: The Transportation Planning report referred to works at second floor level (bathrooms) outside of the red line boundary of the application. This matter was not raised in the Planning report.

3.4. Prescribed Bodies

Transport Infrastructure Ireland (TII):

No observations made by TII other than to acknowledge that the development falls within an area subject to a Section 49 Contribution Scheme for Light Rail. While noting exemptions to the scheme, TII require that a financial contribution is levied where the application is successful and found not to benefit from exemptions.

Note: The application was referred by An Coimisiún Pleanála to the following, however no responses were received:

- The Heritage Council
- An Taisce
- Development Applications Unit- Department of Housing Local Government and Heritage.

3.5. Third Party Observations

2 no. third party submissions were received in relation to the application. Matters of concern raised related to the following:

- Impacts on neighbouring properties/uses including retail and hotel use, resulting in reduced footfall and daytime vibrancy, diluted retail function, and alteration of the street's character.
- Proposal fails to respect the Z5 zoning objective, undermines the retail function of Johnson's Court as a Category 2 Retail Street and is incompatible with Development Plan intentions for the area.

- Lack of justification provided. Restaurant/bar use is Open for Consideration, subject to compliance with other requirements as per Dublin City Development Plan 2022-2028.
- Cumulative impact of restaurants and bars in the immediate vicinity.
- Use is incompatible with the laneways historic status and does not comply with Policy BHA7. The development negatively impacts the ACA, including lack of detail regarding elevational/façade amendments and signage.
- Lack of detail provided in relation to the impact of loading bays/servicing, waste, emergency vehicle access, fire safety/evacuation and hours of operation.
- Details and extent of ancillary entertainment use is unclear.
- Potential for noise, anti-social behaviour, disturbance, late night activity and malodours. Obstruction of pedestrian flow and functionality of neighbouring uses.
- Failure to demonstrate compliance with Development Management Standards including Sections 15.14.7.2, 15.14.7.4, and 15.17.5.
- Discourages retail investment.
- Insufficient detail regarding infrastructure including foul waste, water supply and grease management arrangements.
- Rational for modifications to floor areas outside of the red line application boundary is unclear.

4.0 Planning History

Reg. Ref. 2796/01:

Permission GRANTED for the interlinking of No's. 7, 8 and 9 Johnson's Court at 1st and 2nd floor level together with a new window at 1st floor of No. 9 onto Westbury Mall.

Decision Date: 9th November 2001.

Reg. Ref. 1941/01

Permission GRANTED for alterations to elevations at 7-9 Johnson's Court including alterations to display windows below archway entrance to Westbury Mall at no. 8 Johnson's Court.

Decision Date: 13th August 2001.

Note: Condition No.1

The interlinking of the premises, 7, 8 and 9 at 1st and 2nd floor level does not form part of this permission and shall be the subject of a separate application for planning permission.

Reg. Ref. 0841/99

Permission GRANTED to demolish a rear/side return and replace with a 3-storey over basement level building of 520.2 sq.m. to accommodate ground floor retail showroom with shop fronts onto Westbury Mall and Johnson's Court; retail space and associated facilities at basement level, 1st floor level and 2nd floor level.

Decision Date: 10th May 2000.

Reg. Ref. 1118/98

Permission GRANTED for alterations to shop front.

Decision Date: 18th June 1998.

Reg. Ref. 1236/94

Permission GRANTED for a new shop front and consequent alterations.

Decision Date: 14th July 1994

Neighbouring Property

Section 5 Referral: EXPP 0110/23 No. 9 Johnson’s Court Dublin 2.

Whether the material alteration and reconfiguration of the basement and ground floor of the unit comprising painting, decorating, tiling, installation of stud partition and minor electrical and plumbing constituted development.

The Planning Authority determined that the proposed works constituted a change of use from retail to café/and or coffee take-away which was not exempted development.

Decision date: 24th April 2023

5.0 Policy Context

5.1. The Dublin City Development Plan 2022-2028 is the operative Development Plan for the area and came into effect on the 14th December 2022.

5.2. **Volume 2 Appendix 2** to the Plan contains the City **Retail Strategy**.

5.2.1. Dublin City Centre is identified as Level 1 within the Retail Hierarchy as set out in Table 2. The following extracts from the Strategy as set out in Appendix 2 are noted:

- **Section 8 Strategy to Support the City Centre.** To attract the shopper to the city centre there must be a vibrant mix of shopper experiences which will add to the retail experience and ultimately support the retailing sector. Measures to achieve this are set out in the Strategy and include the following:
- **Section 8.2 Diversifying the City Centre Offer** *‘A vibrant mix of shopping and leisure and cultural uses such as cafes, restaurants, exhibition spaces, cultural and leisure uses and family friendly attractions, can support the future success of the city centre. Such uses are an important part of a shopping experience.....A key objective of this strategy is to diversify the city centre as a place to shop, work and spend leisure time without compromising the importance of retaining a strong retail function’.*
- **Section 8.5 Creating Character Areas/Quarters** notes that *‘distinctive character areas/quarters exist/are emerging in the Retail Core that are linked to cultural attractions and food and beverage provision. These areas support*

vibrant shopping/destination experiences and also play an important role in the nighttime economy. **Figure 4 City Activity Character Areas/Quarters** illustrates the appeal site located within a shopping area/quarter.

- **Section 8.7 Promoting Independent/Specialist Retailing**

‘Independent and niche retailers will be supported throughout the city centre and Dublin City Council will promote the further diversification of the retail offer throughout the Retail Core by seeking a range of retail floor space sizes including provision of smaller units’.

- **Section 8.12 Category 1 and 2 Streets.** Category 2 Streets *‘are those that already have a mix of retail and non-retail uses which complement the primary retail function of the Category 1 Streets. Further development of retail units will be encouraged along with complementary non-retail uses such as cafés and restaurants.....and entertainment uses. The overarching objective of the Category 2 Street designation is to create a rich and vibrant experience with a broad range of land uses and activities with active frontage, that contribute positively to the character and appearance of the Category 2 Streets’.*

- **Section 8.13 Protection and Enhancement of Built Heritage Assets Architectural Conservation Areas (ACAs)** *‘The policy on land-use as set out in the Architectural Conservation Areas (ACAs), with particular regard to complementary non-retail uses, shall be revised accordingly to reflect the approach as set out in the Category 1 and Category 2 Streets, in order to create the rich mix and diversity of complementary uses in the vicinity of the principal shopping streets – see Objective CCUV08 Chapter 7’.*

5.3. Volume 1: Written Statement Dublin City Development Plan 2022-2028

5.3.1. Chapter 7 -The City Centre, Urban Villages and Retail. The following is noted:

- **Figure 7-2 Dublin City Centre Retail Core, Principal Shopping Streets**
Johnston’s Court is located within the City Centre Retail Core and is also identified as a Category 2 Retail Street.
- **CCUV2 Retail Hierarchy**

‘To implement the retail hierarchy contained in the ‘Retail Strategy’ of this Development Plan and to support retail development at all settlement levels in the city. Retail development within the hierarchy of centres will be of a scale, type, and nature that reflects and enhances the role and function of the centre within which it is proposed as per the Retail Strategy, Appendix 2’

- **Policy CCUV15 Premier Shopping Area**

‘To affirm and maintain the status of the city centre retail core as the premier shopping area in the State, affording a variety of shopping, cultural and leisure attractions. In line with the Retail Planning Guidelines, 2012, the city centre should be the main focus for higher order comparison retail in the city to protect its retailing role and primacy.

- **Policy CCUV16 Category 1 and Category 2 Streets**

‘To protect the primary retail function of Category 1 Streets in the city and to provide for a mix of retail and other complementary uses on Category 2 streets. To promote active uses at street level on the principal shopping streets in the city centre retail core having regard to the criteria for Category 1 and Category 2 streets (see Appendix 2 and Figure 7.2)

- **CCUV28 Provision of Retail Services**

‘To support and promote the development of retail service development at all levels of the retail hierarchy in the city’.

- **Policy CCUV35 Night Time Economy**

‘To support and facilitate evening/night time economy uses that contribute to the vitality of the city centre and that support the creation of a safe, balanced and socially inclusive evening / night time economy’.

- **CCUV36 New Development**

‘To support uses that would result in the diversification of the evening and night time economy where there is little impact on the amenity of adjoining or adjacent residential uses through noise disturbance and where there are no negative cumulative impacts in terms of other night-time economy uses in the area’.

- **Objective CCUVO8 Review of Architectural Conservation Areas/Areas of Special Planning Control** states *inter alia* ‘to review the Architectural Conservation Areas (ACAs) pertaining to the retail core so that they reflect the

approach for Category 2 Streets with particular regard to complementary non-retail uses’.

5.3.2. Chapter 11 Built Heritage and Archaeology

Policy BHA7 Architectural Conservation Areas refers to the following:

(a) To protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA 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. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA. Please refer to Appendix 6 for a full list of ACAs in Dublin City.

(b) Ensure that all development proposals within an ACA contribute positively to the character and distinctiveness of the area and have full regard to the guidance set out in the Character Appraisals and Framework for each ACA.

(c) Ensure that any new development or alteration of a building within an ACA, or immediately adjoining an ACA, is complementary and/or sympathetic to their context, sensitively designed and appropriate in terms of scale, height, mass, density, building lines and materials, and that it protects and enhances the ACA. Contemporary design which is in harmony with the area will be encouraged.

(d) Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.

(e) Promote sensitive hard and soft landscaping works that contribute to the character and quality of the ACA.

(f) Promote best conservation practice and encourage the use of appropriately qualified professional advisors, tradesmen and craftsmen, with recognised conservation expertise, for works to buildings of historic significance within ACAs.

All trees which contribute to the character and appearance of an Architectural Conservation Area, in the public realm, will be safeguarded, except where the tree is a threat to public safety, prevents universal access, or requires removal to protect other specimens from disease.

5.3.3. Chapter 15 Development Management

S15.14.7.2 Restaurants/Cafes

S15.14.7.4 Noise, Odour, Ventilation for Restaurant/Café/Take-Away.

S15.17.5 Shopfront and Façade Design

S15.15.2.1 Architectural Conservation Areas

There are 24 no. ACA's within the City as identified in Chapter 11 and by the use of green hatching on zoning maps. Development in these zones must respect the existing character of the area and protect and enhance the setting and appearance of the streetscape and/or protected features. Details on the requirements for development within ACA's are set out in Policy BHA7 and BHA8, as well as in the specific Framework for each ACA. A link within S15.15.2.1 provides access to the ACA's, including the written statement adopted in relation to the South City Retail Quarter ACA. Volume 2 Appendix 6 of the Plan also relates to Conservation and lists under Section 3.0 Architectural Conservation Areas pertaining to the City.

5.4. South City Retail Quarter Architectural Conservation Plan Written Statement

The Plan adopted 5th March 2007, shows the appeal site (northern and western elements) partially located within the ACA. The following policy as set out in the accompanying Written Statement is noted:

- **Section 3 Land Use**
- **Policy 3.0** *'Strengthen and consolidate the Grafton Street area as a major shopping destination, while still maintaining a good balance between shopping, leisure and cultural uses. To achieve this, there will be a strong presumption in favour of higher order retail outlets at basement, ground and first floor levels. Given the fine grain of buildings, the emphasis will be on attracting small to medium scale independent and specialist retailers including those focused on*

fashion, footwear, jewellery, beauty products, fashion accessories and specialist clothing'.

- **Policy 3.1** *'Promote other retail activity and complementary activities such as restaurants and cafes, art galleries and craft showrooms, tailors, hairdressers, barbers and beauticians and other specialist services to visiting members of the public at basement and first floor levels'.*
- **Section 3 (ii) Change of Use to Complementary Non-Retail Uses**
- **Policy 3.2** *'It is the policy of Dublin City Council to apply strict controls to all proposals for change of use from retail to non-retail in order to ensure that the right balance is struck between shopping, leisure and cultural, and that non-retail uses do not dominate key shopping streets'*. The policy states that factors to be taken into account in the assessment include:
 - The effect on the character of the street frontage and the level of shopping provision, taking into account both the current levels of non-retail use and the current levels of the specified use established within each individual street block. Proposed development should not result in two adjacent non-retail uses or the non-retail use being over dominant by virtue of size, location or relationship to other uses.
 - The effect on the amenities of the area and if a positive or negative impact arises on the ACA or protected structure.
 - The effect of the proposed development on overhead/adjacent residential accommodation (e.g. cumulative level of noise, disturbance and smells caused by the specified uses).
 - The effect of the proposed use on the interior of the structure.

5.5. Volume 3 -Zoning Maps Dublin City Development Plan 2022-2028

The appeal site is within Zone Z5 City Centre as per Map E where the objective seeks to *'consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic character and dignity'*.

The related strategy, as set out in Chapter 14 Land-Use Zoning Volume 1 Written Statement, seeks *inter alia* to 'provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night'. 'Ideally, a mix of uses should occur both vertically through the floors of buildings as well as horizontally along the street frontage. A general mix of uses, e.g. retail, commercial, residential, will be desirable throughout the area and active, vibrant ground floor uses promoted'. The strategy notes with respect to Category 1 streets that 'retail should be the predominant ground floor use'.

Restaurant, café/tearoom, public house are listed as permissible uses.

5.6. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) c. 3.3km

South Dublin Bay SAC (Site Code 000210) c.3.3km

North Dublin Bay SAC (Site Code 000206) c.5.6km

South Dublin Bay pNHA (Site Code 000210) c.3.3km

North Dublin Bay pNHA (site Code 000206) c.2.5km

Grand Canal pNHA (Site Code 002104) c.1.2km

Royal Canal pNHA (Site Code 002103) c.1.4km

5.7. EIA Screening

The proposed change of use does not constitute a project while the associated alterations to the structure, including shop front re-design are 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 this report.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The decision of the Panning Authority to refuse permission made on the 24th of July 2025 is the subject of a First Party appeal by Mr. Paul Sheeran. The matters raised may be summarised as follows:

- The decision to refuse permission is based on subjective grounds, misinterpretation of planning policy and a vague and arbitrary assessment of the proposal.
- The development is consistent with Objective Z5-City Centre and with the provisions of the Dublin City Development Plan 2022-2028. Restaurant/bar is permissible under the zoning and would contribute to diversification.
- The development is supported by policies within the Development Plan relating to the nighttime economy and economic activity.
- Refusal based on non-compliance with Policy BHA7 is not considered relevant or valid as it pertains to the physical character of an ACA. As no material alterations which would affect the character of the building are proposed, the reason is unjustified noting there has been no input from the Planning Authority Conservation Office.
- Reason for refusal would suggest that no restaurants are allowed within the ACA.
- The application of Policy CCUV28 would imply that no retail units can change use to restaurant. Reference made to Policy CCUV35 and to Policy CCUV36 which are supportive of the proposal.
- The property is not a protected structure and is not located within the Grafton Street and environs Special Area of Control, with only a portion located within the South City Retail Quarter ACA. Notwithstanding, the development accords with the requirements of the South City Retail Quarter Architectural Conservation Plan; contributes to the character of the area; is sympathetic to its context and promotes best conservation practice.

- The proposal would diversify use-mix and diversification in accordance with Category 2 Shopping Streets and Policy CCUV16.
- The development would enhance surveillance, bring nighttime activity and reduce anti-social behaviour. Given the intended use it would not result in increased noise, disturbance and activity.
- Precedents are cited for development in proximity to the site where permission for change of use to restaurants/bars has been permitted.
- Reference to Figure 4 Appendix 2 of the Retail Strategy should not be taken literally and to construe that retail use only is permissible is neither reasonable nor feasible. Numerous restaurants and bars are located within the area. Reference to Bewley's café being less than 50m from the site.
- Section 8.2 Appendix 2 is supportive, emphasising the need for diversification including restaurants and cafes.
- The building is no longer fit for purpose, and the applicant has moved to a purpose-built property.
- The ancillary entertainment use does not entail a nightclub. The use is sought so as to ensure the proposed bar is *'afforded a small degree of flexibility in order to maintain popularity in the current climate where it is proving increasingly difficult for restaurant and bar patrons to thrive'*. The primary use would remain as food/beverage.

Note: While Section 1.1 of the appeal refers to the decision of the Planning Authority to refuse retention permission under Reg. Ref. WEB2230/5, the development sought did not constitute retention and is taken as an error.

6.2. Observations

An observation has been received from Mr. John Appleby. The matters raised are summarised below:

- First Party does not engage with the substantive planning concerns identified by the planning authority and third-party observers.
- Johnson's Court functions as a specialist retail street defined by higher-order comparison retailing contributing to the street's distinctiveness and identity within the South City Retail Quarter ACA. The laneway is not a generic city-centre location.
- No justification is provided as to why the area should absorb retail loss as well as the cumulative impacts of displacing high-value retail with late-night hospitality uses.
- Restaurant/bar use would undermine daytime vibrancy, discourage retail investment, dilute identity and would be contrary to the Category 2 Street designation in seeking complementary and non-conflicting uses.
- Impacts on the ACA arise, not solely through physical works, but from the incompatibility of high intensity hospitality use. Policy BHA7 requires development to positively contribute to an ACA's character and distinctiveness and is not restricted to façade amendments. Late night activity, noise and servicing demands would fail to protect or enhance the character of the ACA and would diminish its identity as a retail environment.
- Omission of details regarding the shopfront design, façade materials and signage renders compliance with the requirements of the ACA unproven.
- Development would give rise to public safety concerns and operational impacts on neighbouring properties given the limited vehicular access, and through lack of serving bays and detailed evacuation plans.
- The application is deficient in terms of noise, ventilation and odour management. Compliance with Development Management standards is not demonstrated.
- Lack of clarity surrounding the ancillary entertainment use with risk of material harm to the amenity of neighbouring uses and deterrent to investment.
- Notwithstanding reference to precedents in the area, each application must be assessed on its merits and context. Permitting the subject development would create an undesirable precedent.

7.0 Assessment

7.1.1. This is a First Party appeal by Mr. Paul Sheeran against the decision of Dublin City Council to refuse planning permission for Reg. Ref. WEB 2230/25. The overall concern central to the determination is whether the proposed change of use from retail to restaurant is such as to be compliant with the Retail Strategy pertaining to the City and the designation of Johnson's Court as a Category 2 Retail Street. A further consideration relates to whether the change in use would disrupt the overall character and composition of Johnson's Court to a degree which would materially impact the character of the street and the Architectural Conservation Area within which it is located. I consider that the main issues for consideration relate to the following:

- Principle of Development and Compliance with Land Use Zoning Objective.
- Compliance with the Dublin City Retail Planning Strategy.
- Impacts on the South City Retail Quarter Architectural Conservation Area.
- Other Matters

7.2. Principle of Development and Compliance with Land Use Zoning Objective

7.2.1. The appeal site is located within the Zone 5 (Z5 City Centre) land use zone where the objective seeks to *'consolidate and facilitate the development of the central area and to identify, reinforce, strengthen and protect its civic character and dignity'*. Restaurant, café/tearoom and public house are listed as permissible uses.

7.2.2. While the scope of uses permissible under the zoning objective is both broad and diverse, I would agree with the concerns raised that limited detail is provided in both the application and in the First Party appeal regarding the full nature and extent of the proposal, particularly in relation to the ancillary entertainment use intended. Insufficient details are provided to clarify the form, extent and operational practicalities of the ancillary use, and while noting that a nightclub is not under consideration, the basis of the unspecified ancillary entertainment use in the bar to afford *'a small degree of flexibility in order to maintain popularity in the current climate'* is ambiguous and expands little on the use proposed.

7.2.3. I note shortcomings in the information provided with the application, including in relation to certain design and servicing elements which have implications for other designations applicable to the site. These matters, together with the overarching requirements of the City's Retail Strategy are examined in later sections of this report. However, the proposed change of use from retail to restaurant, in its broadest sense, may be viewed as being consistent with the underlying Z5 zoning. Should the Commission be minded to award permission, it is suggested that consideration is given to excluding such unspecified ancillary entertainment use and limiting the full extent of the permission to restaurant/bar use only.

7.3. **Compliance with the Dublin City Retail Planning Strategy**

7.3.1. As set out under Section 5.0 of this report, Appendix 2, Volume 2 to the Dublin City Development Plan 2022-2028 contains the Retail Strategy for Dublin City, with the city centre area, including Johnson's Court identified as Level 1 within the Retail Hierarchy (Table 2). Policy CCUV28 seeks to support and promote the development of retail services at all levels of the hierarchy while Policy CCUV2 requires that the Retail Hierarchy as contained in the Retail Strategy is implemented and be of a scale, type and nature that reflects and enhances the role and function of the centre within the hierarchy as per the Strategy.

7.3.2. I note also and while Section 8.2 of the Strategy acknowledges that diversifying offer can support the future success of the city centre, this must be tempered by the requirement to ensure that such diversification occurs without 'compromising the importance of retaining a strong retail function'. In this regard, the Strategy refers under Section 8.5 and illustrates under Figure 4, broad City Activity Character Areas/Quarters (Shopping, Food Beverage, Culture and Opportunity). The appeal site is located within a Shopping Area/Quarter associated with the Grafton Street area. While I agree with the First Party that the illustration should not be viewed as prescriptive in terms of apportioning strict area-based use classes, it does point to an emergence of defined character areas within the City.

7.3.3. The Retail Strategy also defines Category 1 and Category 2 Streets with the latter category comprising streets *‘that already have a mix of retail and non-retail uses which complement the primary retail function of the Category 1 Streets. Further development of retail units will be encouraged along with complementary non-retail uses such as cafés and restaurants.....’* The overarching objective of the Category 2 Street designation *‘is to create a rich and vibrant experience with a broad range of land uses and activities with active frontage, that contribute positively to the character and appearance’*.

7.3.4. I note that Section 8.13 Protection and Enhancement of Built Heritage Assets Architectural Conservation Areas (ACAs) requires that policy on land-use as set out in the ACAs, (with particular regard to complementary non-retail uses), *‘shall be revised accordingly to reflect the approach as set out in the Category 1 and Category 2 Streets’*. This is also reflected in Objective CCUVO8 of the Development Plan set out in Chapter 7.

I am not aware that the Planning Authority has to date conducted a review of extant ACA’s pertaining to the retail core so as to reflect the approach for Category 2 Streets/complementary non-retail uses set out in the Retail Strategy. As such the provisions of the South City Retail Quarter ACA as examined later in this report remain pertinent to this assessment.

7.3.5. While the First Party refers to the existence of restaurant/cafe use on Johnson’s Court, such use is currently restricted to the Bewley’s café premises which has a side access onto the street in proximity to the appeal site. Given the historic and long-established connection of Bewley’s to this location and having regard to the secondary nature of its entrance onto Johnson’s Court (primary shopfront addressing Grafton Street), I am of the view that the street is essentially retail in nature. The First Party also lists 3 no. examples of other properties to demonstrate the existence of precedent for change of use to restaurant in the immediate area. Of these, 2 no. relate to areas outside of the Shopping Character Area/Quarter identified in Figure 4 of the Retail Strategy, while the remaining example relates to a unit within the Royal Hibernian Way. Given the form of the host structure in this example, I do not consider it directly comparable to the appeal site.

7.3.6. The First Party points to numerous provisions of the Development Plan which support diversification and mixed-use, economic objectives and the nighttime economy. I again refer to the Retail Strategy and supporting provisions which acknowledge the added value which diversification by complementary uses can bring, provided it does not compromise the importance of retaining a strong retail function. Notwithstanding its designation as a Category 2 Street, the development is also required to demonstrate consistency with the provisions of the ACA which applies. This is examined below.

7.4. Impacts on the South City Retail Quarter Architectural Conservation Area

7.4.1. A small portion of the building (northern and western elements) is located within the boundaries of the South City Retail Quarter ACA as detailed on Map E of the Development Plan. As these elements relate to the building's façades/shopfronts, I would hold that the provisions of the South City Retail Quarter Architectural Conservation Plan Written Statement (adopted 5th March 2007) pertain.

7.4.2. I note the contention held by the planning authority and as expressed by observers that Johnson's Court exhibits a strong sense of enclosure and that the clustering of higher order comparison retailing (jewellery stores) contributes to its unique character and sense of place.

7.4.3. While I note the requirements of Objective CCUVO8- *'to review the Architectural Conservation Areas (ACAs) pertaining to the retail core so that they reflect the approach for Category 2 Streets with particular regard to complementary non-retail uses'*, I am not aware that the relevant ACA pertaining to the appeal site has been reviewed to date and the provisions of the Written Statement, adopted in 2007, still apply.

I note in this regard Policy 3.0 of the ACA Written Statement acknowledges Council policy to strengthen and consolidate the Grafton Street area as a major shopping destination, while maintaining a good balance between shopping, leisure and cultural uses. To achieve this, a strong presumption in favour of higher order retail outlets at basement, ground and first floor levels is to be sought. Policy 3.0 also notes the fine grain of buildings places an emphasis on attracting small to medium scale independent

and specialist retailers including those focused on fashion, footwear, jewellery, beauty products, fashion accessories and specialist clothing.

The Written Statement acknowledges a trend towards a change of use to complementary non-retail use on streets within the ACA and requires, as set out under Policy 3.2 *'to apply strict controls to all proposals for change of use from retail to non-retail in order to ensure that the right balance is struck between shopping, leisure and cultural, and that non-retail uses do not dominate key shopping streets*'. Policy 3.2 thereafter refers to a number of factors to consider in the assessment of applications for change of use from retail to non-retail. These include the effects of the proposed development on:

- the character of the street frontage and the level of shopping provision, taking into account both the current levels of non-retail use and the current levels of the specified use already established within each individual street block.
- the amenities of the area and in particular whether the proposal would have a positive or negative impact on the architectural conservation area.
- overhead/adjacent residential accommodation, with particular regard to the cumulative level of noise, disturbance and smells caused by the specified uses that would be detrimental to the residential amenity of those properties.
- the proposed use on the interior of the structure, including the potential damage to or loss of internal features or fittings considered worthy of retention

Considering the foregoing policy, I am of the view that commensurate with its limited length of c. 75m and the extent of non-commercial uses (e.g. St. Teresa's Church), that active retail frontage on the street is limited, and any alteration to non-retail use within the remaining units would have a disproportionate and pronounced impact on the character of the street. While secondary retail frontage addresses Johnson's Court towards its junction with the Grafton Street junction, no access to the units is provided.

- 7.4.4. I note the concerns raised by the First Party concerning a perceived failure by the Planning Authority to demonstrate how the proposal would diminish the character of the ACA, given that no material alterations are proposed and therefore refusal based on the provisions of Policy BHA7 is unjustified. I note that the building is not listed as a protected structure and physical amendments to the façades are in the main, restricted to the ground floor shopfront addressing Johnson's Court. In this regard, I consider that the application would have benefited from further examination of the shopfront re-design, noting that no specific conservation-led design approach appears to have been adopted and no details are provided in relation to intended signage. While I note the absence of a report from the planning authority's conservation officer, I do not consider this a significant shortcoming in the overall assessment conducted and no significant concerns arise in relation to the design proposed.
- 7.4.5. Concerns are also raised in the Third-Party Observation as to the absence of information concerning the full nature and extent of the development, both in terms of use and in terms of ancillary services. I refer again to proposals for ancillary entertainment use within the bar and to reference by the First Party to such use being required to afford '*a small degree of flexibility in order to maintain popularity in the current climate*' The documentation provided in the application as well as in the First Party appeal fail to fully clarify this matter and the nature and extent of the ancillary use remain ambiguous. This has implications for wider impacts on the receiving environment and for neighbouring uses such as the nearby hotel. Regarding ancillary services, I note the absence of details regarding servicing arrangements, waste disposal, and location of ventilation systems. As the location of extraction/ventilation systems is not specified I cannot determine if potential impacts arise in relation to proximity or intrusion on neighbouring properties/uses. Similar issues arise in relation to a waste management strategy to benefit the site. Such information would be relevant in the event of a decision to grant planning permission.
- 7.4.6. I note the report of the Transportation Planning Division which was satisfied that servicing and access could be addressed by way of a planning condition. This required that a management plan to include details of service vehicles; intended servicing locations and routes (including swept path analysis where appropriate) and conflict mitigation be agreed prior to occupation. Given the commercial nature of the area, the

limited extent of the street and proximity to both Clarendon and Grafton Street areas, I am satisfied that servicing/access arrangements could be appropriately addressed.

7.4.7. Policy 3.2 of the ACA Written Statement requires that a change of use not impact neighbouring development, with particular regard to the cumulative level of noise, disturbance and smells which could be detrimental to the amenity of neighbouring properties. I note however that this policy refers specifically to residential use within such properties.

7.4.8. Based on the foregoing, I am of the opinion that the proposed development has not demonstrated compliance with the provisions of the South City Retail Quarter ACA and would not therefore be in compliance with the provisions of Policy BHA7 of the Development Plan requiring *inter alia*, that development within or affecting an ACA must contribute positively to character and distinctiveness and have full regard to the guidance set out in the Character Appraisals and Framework for each ACA. Furthermore, I note Section 82(2) of the Planning and Development Act 2000, as amended, which requires that *'in considering an application for permission for development in relation to land situated in an architectural conservation area, a planning authority, or the Board on appeal, shall take into account the material effect (if any) that the proposed development would be likely to have on the character of the architectural conservation area'*.

7.4.9. Having regard to its limited overall length and the restricted quantum of commercial/retail use thereon, I am of the opinion that the loss of retail floor space would have a disproportionate negative impact on the character of Johnson's Court which would negatively impact the character of the associated ACA and would be contrary to the provisions of the Architectural Conservation Plan Written Statement, in particular Policy 3.0 and Policy 3.2.

7.5. **Other Matters**

I note the Planning Authority's Transportation Planning Division refers to works at second floor level (bathrooms) which are outside of the red line boundary of the application. This matter was not otherwise addressed in the planning report. In this

regard I note the site location map extends to the entire unit with the exception of the link building above the entrance to the Westbury Mall. While I note previous planning applications refer to a link to adjoining properties (Refer to Section 2.0 Planning History) this area is not under consideration as part of the subject scheme. The development as proposed is therefore contained within the boundaries of the application site.

8.0 **Appropriate Assessment Screening**

- 8.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000, as amended.

The appeal site is located within Dublin City Centre on zoned, serviced lands and relates to an existing three storey over basement property. The separation distances between the appeal site and Natura 2000 sites situated in the wider area are set out below:

South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) c. 3.3km

South Dublin Bay SAC (Site Code 000210) c.3.3km

North Dublin Bay SAC (Site Code 000206) c.5.6km

- 8.2. The proposed development comprises a change of use from commercial to restaurant/bar use with ancillary entertainment use. Minor alterations are also proposed, including provision of replacement fire exit staircase and new front exit/entrance doors. The development connects to existing public wastewater and surface water sewers as well as to public water mains.
- 8.3. The Planning Authority conducted an Appropriate Assessment Screening, determining that there was no likelihood of significant effects on a European Site.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. 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 effect on a European Site. The reason for this conclusion is as follows:

- Nature of the works i.e. change of use from commercial premises to restaurant/bar and ancillary entertainment use.
- Location and distance from the nearest European site and lack of connections.
- Taking into account determination of the Planning Authority.

8.6. 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 thereafter Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Water Framework Directive

9.1. The subject site is located in Johnson's Court Dublin 2 and relates to a change of use within the existing structure from commercial (retail) to restaurant/bar. The property is separated by a distance of approximately 557m from the River Liffey IE_EA_090_0400 and 1.4km from the Grand Canal Main Line (Liffey and Dublin Bay) IE_09_AWB_GCMLE. The site is within the Liffey and Dublin Bay Water Framework Directive Catchment ID 09.

9.2. I have assessed the development seeking permission and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks 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 either qualitatively or quantitatively. The reason for this conclusion is as follows:

- Nature of works concerned, providing for a change of use from retail unit to restaurant/bar within an existing city centre structure with minor physical alterations and noting existing connections to public wastewater, water supply and surface water systems.
- Distance from nearest water bodies and/or lack of hydrological connections.

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.

10.0 Conclusions

11.0 Having regard to the proposed change of use from commercial (retail) to restaurant/bar with ancillary entertainment use; the provisions of the Retail Strategy as set out in Appendix 2 of the Development Plan; the associated policy to diversify the city centre offer without compromising retail function; the location of the property within the South City Retail Quarter ACA and the requirements of the associated Architectural Conservation Plan, together with Development Plan policy to protect the special interest and character of such designated areas; I consider that the proposed development would fail to achieve the forgoing and would be contrary to the provisions of the Development Plan and would negatively impact the designated ACA of which it forms part.

12.0 Recommendation

I recommend that permission be refused for the reasons and considerations set out below:

13.0 Reasons and Considerations

Having regard to the limited extent of Johnson's Court, a designated Category 2 Street, together with the current restricted provision of retail use thereon, it is considered that the proposed development, providing for a change of use from commercial (retail) to restaurant/bar with ancillary entertainment use would, undermine the retail function of the street and would contravene the provisions of Policy CCUV28 of the Dublin City Development Plan 2022-2028 which seeks to support and promote retail service development at all levels of the retail hierarchy. The

loss of retail use on Johnson's Court would also be contrary to the provisions of Policy 3.0 and Policy 3.2. as set out in the South City Retail Quarter Architectural Conservation Plan Written Statement and the development would as a result, contravene Policy BHA7 of the Development Plan relating to designated Architectural Conservation Areas. The proposal 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.

Patricia Byrne
Planning Inspector

23rd January 2026.

Form 1 - EIA Pre-Screening

Case Reference	ACP-323429-25
Proposed Development Summary	(i) Change of use from commercial premises to restaurant/bar with ancillary entertainment use; (ii) demolition of existing staircase and provision of replacement fire exit staircase; (iii) provision of new fire exit/entrance doors; (iv) and all other associated works necessary to facilitate the change of use.
Development Address	No. 7 Johnson's Court Dublin 2
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? (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.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, 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.	
<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 Part 2, 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,	

<p>Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	

<p>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)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____

Date: _____ .