An Coimisiún Pleanála

Inspector's Report
ACP-324045-26

Question	PROTECTED STRUCTURE: Whether the removal of the internal partition wall between two units, for the purpose of amalgamating the units into a singular unit is or is not `development and is or is not 'exempted development', whether the change of use from Restaurant to Retail is or is not `development and is or is not 'exempted development' and whether works to the shopfront is or is not `development and is or is not `exempted development'.
Location	59-61 Dame Street, Dublin 2

Declaration

Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	0533/25
Applicant for Declaration	Chambers Properties Limited.
Planning Authority Decision	Split Decision

Referral

Referred by	Chambers Properties Limited.
Owner/ Occupier	Chambers Properties Limited

Date of Site Inspection	02/06/2026
Inspector	Sandra Eapen

Contents

1.0 Site Location and Description 5

2.0 The Question 5

3.0 Planning Authority Declaration 6

3.1. Declaration 6

3.2. Planning Authority Reports 6

4.0 Planning History 7

4.1. Subject Referral Site 7

4.2. Relevant Referral Decisions 8

5.0 Policy Context 9

5.1. Development Plan 9

5.2. National Inventory of Architectural Heritage (NIAH) 9

5.3. Natural Heritage Designations 10

6.0 The Referral 10

6.1. Referrer's Case 10

6.2. Planning Authority Response 11

7.0 Statutory Provisions 11

7.1. Planning and Development Act, 2000, as amended 11

7.2. Planning and Development Regulations, 2001, as amended 13

7.3. Ministerial Guidelines: Architectural Heritage Protection Guidelines for Planning Authorities, 2011 16

8.0 Assessment 17

8.1. Is or is not development 17

8.2. Is or is not exempted development 19

8.3. Restrictions on exempted development 21

9.0 Screening for Appropriate Assessment 23
10.0 Environmental Impact Assessment (EIA) Screening 24
11.0 Recommendation 24

1.0 Site Location and Description

1.1. This referral is made in relation to a corner site located to the north of Dame Street and west of Eustace Street, comprising of Nos. 59-61 Dame Street and Nos. 1 and 2 Eustace Street. The building on subject site, known as 'Shamrock Chambers', is a seven-bay, five storey (over basement) commercial building with chamfered corner bay addressing Dame Street. Along Eustace Street, the building has a six-bay elevation with notable stucco features, carved timber motifs and rounded doorcases along street facing elevation at ground floor level.

1.2. The questions are made in relation to the ground floor units of the building addressing Dame Street which currently operates as a single retail shop. Part of the site, Nos. 1 and 2 Eustace Street is listed as a Protected Structure (RPS Ref. No. 2691) in the Dublin City Development Plan 2022-28. The entire premises are also entered in the National Inventory of Architectural Heritage (NIAH Reg. No. 50020089) under a regional rating. The subject site is also located within a Conservation Area designated within the Development Plan.

2.0 The Question

2.1. The referrer has raised 3no. questions in the section 5 application. I have amended the questions to clarify the scope of the declarations. All amendments are shown in *italics*

- Whether the removal of the internal partition wall between two units, for the purpose of amalgamating the units into a singular unit is or is not `development and is or is not 'exempted development',
- Whether the change of use from Restaurant *to* ~~from~~ Retail *for units 60-61 Dame Street* is or is not `development and is or is not 'exempted development' and
- Whether works to the shopfront is or is not `development' and is or is not `exempted development'.

2.2. The application was supported by a planning assessment.

3.0 Planning Authority Declaration

3.1. Declaration

Dublin City Council (DCC) issued a split decision:

- The change of use from restaurant to retail use was declared to be exempt development.
- The removal of internal partition walls between two units, amalgamating the two units (No. 59 and 60) and works to the shopfront were considered to comprise development which would not come within the meaning of Section 4 (1) (h) and Section 57 of the Planning and Development Act 2000 and therefore would require planning permission.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points discussed within the Planning Authority's report can be comprehended as below:

- Notes that the applicant has provided very little information with regard to the Protected Structure and impacts to the historic fabric.
- Proposed removal of section of an internal wall running north-south between No. 59 and 60 Dame Street could contain historic fabric.
- Refers to Section 4.12.4 of the Architectural Heritage Protection Guidelines for Planning Authorities 2011 which states breaking out of rooms or spaces to materially alter the character of the Protected Structure.
- The proposed change of use was considered to be exempt as per Schedule 2, Part 1, Class 14(c) of the Regulations.
- Changes to the shopfront was considered to have material impact on the protected structure and thereby considered to not fall under Section 4(1)(h) and Section 57 of the Planning and Development Ac, 2000 as amended.

4.0 Planning History

4.1. Subject Referral Site

- **DCC Reg. Ref. WEB5614/25** Permission granted (final grant date 06 May 2026) for a change of use of the existing 5-storey over basement building from retail, restaurant and office uses to retail/café and hotel uses; and the provision of an additional sixth storey element (260 sqm). Permission was also granted for modifications to the existing shopfront. It is noted that retention permission was not sought for the removal of section of internal wall and changes made to the shopfront.
- **DCC Reg. Ref. 0397/25** Additional Information sought (7 October 2025) for a section 5 declaration on construction works to fit out an existing restaurant premises as a retail shop.
- **DCC Ref. E0742/25:** Enforcement file active on site in relation to unauthorised change of use and amalgamation of building and new signage.
- **DCC Ref. E0661/25:** Enforcement file active on site in relation to shopfront changes.
- **ABP-318298-23 /DCC Reg. Ref. 4249/23:** Permission was refused (final grant date 23 September 2024) for a change of use to a hotel and an additional floor to the protected structure on grounds that the excessive height, scale and massing of the proposed roof extension to be overly dominant and obtrusive form of development that would seriously injure the character and appearance of the host building and visual amenity of the surrounding conservation area, contrary to policies BHA2 and BHA9 of the Development Plan.
- **DCC Reg. Ref. 3867/17**: Permission granted (final grant date 23 February 2018) for change of use of existing restaurant, shop and office building to hotel use. The works proposed also included internal modifications, reconfigurations, refurbishments and associated works.

- **DCC Reg. Ref. 2351/91:** Permission refused (09 January 1992) for the retention of 2 no. air conditioning units to the Eustace Street façade at 59 Dame Street, Dublin 2.

4.2. **Relevant Referral Decisions**

- **RL3056:** This referral related to a change of use of a unit from a commercial bank to retail use and its amalgamation with for adjoining retail units in Waterfor Shopping Centre, Lisduggan, Co. Waterford. The Commission concluded that the original Unit & constituted a planning unit that was subdivided from adjoining units by means of a wall, the amalgamation of these units constitute 'development' and would not come within the scope of Section 4 (1) (h) of the 2000 Act in that they did not involve works for the maintenance, improvement or other alteration of a structure by a group of individual permitted units. The change of use was considered to be material and not exempt
- **RL3214**: This referral related to internal works consisting of removal and rearrangement of internal walls and staircase/lifts and overall reorganisation for the amalgamation of Former Newport Café and Mangan's Nightclub, Paul Street, Carey's Lane. The Commission concluded that Section 4 (1) (h) does not apply as the works do not comprise development consisting of the carrying out of works for the maintenance, improvement or other alterations of any structure, but rather works to facilitate an amalgamation of the two premises, which in terms of permitted uses function as separate planning units and a change of use which constitute a material change of use which does not fall within the scope of any one of the classes specified in 2001 Regulations.
- **RL3578**: This referral related to the amalgamation of 2 no. retail units within the Pavillion's Shopping Centre, Swords, Co. Dublin. The Commission concluded that the two units (G45 and G46) constitute separate planning units within the overall shopping centre, that are functionally separated from each other by means of a wall and have separate primary retail frontages and service access. The amalgamation would constitute development and was

considered to not fall within the scope of Section 4 (1) (h) of the 2000 Act in that they would not involve works for the maintenance, improvement or other alterations of a structure but rather of two individual permitted units.

5.0 Policy Context

5.1. Development Plan

The subject site is zoned Z5 – City Centre with an objective to 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. The site is located within Temple Bar area which is designated as a 'mixed-use cultural quarter' for the city and part of the site falls within a special Conservation Area designation under the Development Plan. No. 1 and 2 Eustace Street is a protected structure RPS Ref. No. 2691 described as "Shamrock Chambers: stucco pedimented entrance door and flanking windows and cage lift".

5.2. National Inventory of Architectural Heritage (NIAH)

The building is entered in the NIAH records (Reg No. 50020089) for special interest in Architectural and Historical categories with a regional rating. Its appraisal is as follows:
"Due to its form and scale, this building makes a strong impression on the streetscape. The first-floor glazed screen is particularly striking. Its development is unclear, and although it may contain earlier fabric, its present form arises from works in 1871 by J. Rawson Carroll for Brown, McConkey & Co., and later alterations in 1890, 1909 and 1930 for the Lipton family who were tea merchants. The name Shamrock Chambers was derived from the name of their racing yacht. The later rendered shopfront on the Eustace Street elevation demonstrates good quality decorative detail, in particular the ornamental detail within the round-headed windows. The internal lift dates to c.1890 and is one of the last metal-cage lifts in the

city. Dame Street, which derives its name from a dam which powered a mill on the River Poddle, was an important thoroughfare during the eighteenth century, connecting the Parliament House, now Bank of Ireland, with Dublin Castle. It was significantly rebuilt in the latter decades of the eighteenth century by the Wide Streets Commissioners.”

5.3. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA (site code 004024) and North Dublin Bay Natural Heritage Area (site code 000206) are located 2.9km (east) downstream.

6.0 The Referral

6.1. Referrer’s Case

This referral is lodged by the applicant, Chamber Properties Limited, seeking a review of the declaration issued by Dublin City Council on 20/02/2026. This Section 5 has been referred by the applicant under Section 5(3)(a) of the Planning and Development Act, 2000 as amended following the decision of the Planning Authority. The main points for consideration raised by the referrer are as follows:

- Change of use element of the Section 5 declaration made by the Planning Authority is not presented as part of the subject referral.
- The referrer considers the two remaining elements to be exempted development in accordance with Section 4(1)(h) of the Planning and Development Act, 2000 as amended.
- RPS record for No. 1 and 2 Eustace Street states that the protection extends to “stucco pedimented entrance door and flanking windows and cage lift.”
- Units 60-61 was most recently occupied as a restaurant, ‘Crackbird’ which ceased operations in December 2018 and has remained vacant until recently it was repurposed for retail use.
- Unit 59 has been in retail use selling souvenirs for many years

- No major change to gross floor space as only a small section of internal wall has been removed.
- No material intensification of use given that the units were permitted to operate as a restaurant prior to their amalgamation.
- The levels of footfall, refuse, foul, wastewater, water supply etc. would remain the same or less intensive that previous uses on site.
- Subsequent hotel planning application lodged on subject site for carrying out significant improvements to the unit and shopfront along Dame Street.
- References made to other Section 5 declarations for amalgamation of two retail units – DLR Ref. 10218.
- DCC determination relied on material impact to the character of the protected structure – the removal of the section of wall neither effects the operation of the lift cage nor the stucco pedimented entrance door and windows of No. 1 and 2 Eustace Street protected within the RPS.
- The two remaining elements seeking Section 5 declaration are minor works in accordance with Section 4(1) (h) as they do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.
- Site is located within a conservation area as per the development plan which is not an Architectural Conservation Area.

6.2. Planning Authority Response

No further comments on file

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000, as amended

The following definitions under Section 2(1) are relevant to the questions referred:

"alteration" includes—

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

"protected structure" means—

(a) a structure, or

(b) a specified part of a structure,

which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure, and which would not otherwise be included in this definition;

"protection", in relation to a structure or part of a structure, includes conservation, preservation and improvement compatible with maintaining the character and interest of the structure or part;

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

As per Section 3(1) - *In this Act, except where the context otherwise requires, "development" means—*

> *(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or*
>
> *(b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).]*

Section 4(1) details exempted developments for the purposes of the Act – The following items are relevant to the subject referral:

> (*h*) *development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;*

As per Section 57(1) *Notwithstanding Section 4(1)(a), (h)(i)(ia), (j), (k) or (l) and any regulations made hereunder, Section 4(2) the carrying out of works to a protected structure, or a proposed protected structure shall be exempted development only if those works do not materially affect the character of*

> *(a) the structure or*
>
> *(b) any element of the structure which contributes to a its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.*

7.2. **Planning and Development Regulations, 2001, as amended**

Article 5 of the Regulations set out definitions for Exempted Development. The following interpretations are relevant to subject referral:

'shop' means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public – (inter alia)

> *(a) for the retail sale of goods,*
>
> *(b) as a post office,*
>
> *(c) for the sale of tickets or as a travel agency,*

(d) for the sale of sandwiches or other food or of wine for consumption off the premises where the sale of such food or wine is subsidiary to the main retail use…

but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a <u>*restaurant*</u> *or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;*

As per Article 6 (1) *Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.*

Article 9 of the Regulations sets out the restrictions to exemptions:

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(vi) interfere with the character of the landscape, or review our prospect of special amenity value or special interest…

(viiB) … the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the

structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area …

Article 10 of the Regulations sets out the Change of use specified as exempted development:

(1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

(a) involve the carrying out of any works other than works which are exempted development;

(b) contravene a condition attached to a permission under the Act,

(c) be inconsistent with any use specified or included in such a permission, or

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

Part 1, Schedule 2, of the Regulations sets out General categories for exempted development under Article 6

Change of use CLASS 14

Development consisting of a change of use—

(a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,

(c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a <u>restaurant</u>, to use as a <u>shop</u>,

(d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,

7.3. **Ministerial Guidelines: Architectural Heritage Protection Guidelines for Planning Authorities, 2011**

As per Section 4.12.4 on Changes to internal layout:
"Alterations to the internal layout, including those required for fire safety purposes or to improve access; alterations that would affect the original or early surviving plan form or section; the insertion of fixed partitions; the breaking out of new openings between rooms or spaces; the insertion of new doors or screens; the alteration of floor levels; the insertion of suspended ceilings; alterations to the layout or form of stairwells."

As per Section 2.5.2. with regard to Protecting part of a structure
"Protecting part of a structure 2.5.2 Although it is possible to give protection to part only of a structure, the initial assessment should include the whole of the structure including the interior and rear of the structure, the land within its curtilage and any structures in the curtilage before it is established that only a specified part of the structure is worthy of protection. Where only a part of a structure is currently listed for protection, consideration should be given to extending protection to the entire structure. For example, where the protected structure is a plaque, a shopfront or a façade, the entire structure of which the element is part may also be of interest and worthy of protection. The protection of a façade alone should generally only be considered where there is no surviving interior of any interest, for example where the building has previously been gutted and the façade is the only remaining feature of the original historic building. Generally, a façade relates integrally to its building, which may retain interior detail of note including, for example, the original spatial plan, shop-fittings or decorative elements such as chimneypieces, staircases, window shutters or cornices. Elements of the external envelope and/or within the curtilage may also be of intrinsic interest and worthy of protection; these might include the roof, the rear elevation, outbuildings or other site features."

8.0 Assessment

The purpose of this referral is not to determine the acceptability of the works in terms of the proper planning and sustainable development of the area, but whether the works carried out constitute development and if so, does it fall within the scope of exempted development. It is noted that the referrer only seeks clarification on two of the three questions raised. However, for completeness and in accordance with Section 5(3)(a) of the Planning and Development Act, 2000 as amended (hereafter referred to as the 2000 Act), all works that were part of the Planning Authority's declaration is re-examined in this review.

8.1. Is or is not development

8.1.1. Section 3 (1) of the Act defines 'development' as the "*carrying out of any works on, in, over or under lands or the making of any material change in the use of any structures or other land*". The works discussed as part of the referral are located within ground floor units 59-61 addressing Dame Street. The applicant has raised three questions as part of the referral, the removal of a section of internal wall for the amalgamation of two units (Units 59 and 60-61 Dame Street); the change of use from restaurant to retail for Units 60-61; and alterations made to shopfront for all units. The Planning Authority considered all works and the change of use carried out on the site to constitute 'development' in the meaning of the 2000 Act. Units 59-61 Dame Street currently operates as a combined retail unit. Their amalgamation is a material alteration that would constitute development as it included physical works including the removal of internal walls. Works have been carried out both internally and externally to the units, including the shopfront, that would fall within the scope of 'development' as per Section 3(1) of the 2000 Act.

8.1.2. A change of use was carried out for units 60-61 from Restaurant to Retail/Shop use. It is necessary to establish if the change would result in a material change of use to understand if the change of use would constitute development as per Section 3 of the 2000 Act. Restaurant use including the sale of hot food items for consumption within the premises are specifically excluded from the definition of a 'shop' under

Article 5(1) of the Planning and Development Regulations, 2001, as amended (hereafter referred to as the 2001 Regulations). Thereby the change of use would not qualify for the exemptions available under Article 10 (1) of the 2001 Regulations.

8.1.3. The judgement under Monaghan County Council v Brogan [1987] I.R. 333, established the requirement for a test for materiality to determine if the change of use would raise matters that constitute material planning considerations that would be considered in a planning application such as "residential amenity, traffic safety or policy issues". The more recent judgement under Stanley vs ABP [2022] IEHC 177, sets out a test to determine whether a change of use is material in the decision-making process. This test is applied below for the subject referral:

(i) what is the actual change of use?

The previous established use of units 60-61 was as a Restaurant. It is noted that the units had remained vacant from 2018 until its current occupation as a retail shop in 2025 (approx.). The applicant did not resume the previous use and has thereby carried out a change of use from 'Restaurant' to 'Retail/Shop' for units 60-61, Dame Street.

(ii) what effects, impacts or consequences in planning terms arise from the said change?

The change of use has resulted in changes in levels of footfall, hours of operation, level of infrastructure services required, nature of services provided, parking requirements, staff requirements, delivery arrangement etc.

(iii) what is the scale of those impacts and if they give rise to concerns?

With respect to units 60-61, the applicant has carried out a factual change of use from 'restaurant' to 'retail'/ 'shop' as defined under Article 5 of the 2001 Regulations. Although in this instance, the impact of the change of use may not be significant in scale, the works has resulted in a different nature and function of the units. The change of use would be development

8.1.4. It can be therefore concluded that a material change of use has been carried out for units 60-61 Dame Street and is therefore considered to be development. The three questions raised in the subject referral is considered to fall within the scope of 'works' and 'development' within the meaning of the 2000 Act.

8.2. **Is or is not exempted development**

8.2.1. Removal of Internal Walls: The first question to consider is whether or not the removal of a section of the internal wall (approx. 3m wide) for the purpose of amalgamating units No. 59 and 60-61, Dame Street, is or is not exempted development. The referrer has regarded the proposed internal alteration works to fall under the exemptions stated under Section 4 (1) (h) of the 2000 Act. The Planning Authority in their assessment considered the works to be not exempt as it would materially alter the character of a protected structure.

8.2.2. Section 4 (1) (h) of the 2000 Act states that development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures comprises exempted development. I note that the reference here is to a singular structure and not multiple structures. Unit 59 up to most recently served as a small independent corner shop selling souvenirs and previously sold sweets as Mr Simms Olde Sweet Shop. I would consider Unit 59 to constitute a separate planning unit given it is clearly defined, functionally separated by walls from adjoining units and had a different unit number. Previous application under Reg. Ref. 2351/91 which solely dealt with alterations to Unit 59 is evidence to this.

8.2.3. The Commissions previous declarations under RL3578, RL3214, and RL3056, concluded that the works for the amalgamation of separate planning units, that were previously subdivided from the adjoining units by means of walls would not come within the scope of Section 4 (1) (h) of the 2000 Act, in that they did not involve works for the maintenance, improvement or other alteration of a singular structure but rather separate units.

8.2.4. The amalgamation of units has resulted in a much larger unit that extends across Units 59-61, permanently altering the urban grain along the street and rendering it inconsistent with its original character. If similar amalgamation of units is allowed under exempt regulations, this would alter the form of retailing along city centre shopping streets that would in turn impact the proper planning and sustainable development of the area. The works thereby do not fall under the scope of exempt development but could be considered for permission should a retention planning application be lodged in this regard.

8.2.5. Change of Use: The second question raised by the referrer is in relation to the change of use of the ground floor of No. 60-61 Dame Street, from 'restaurant' to 'retail' use. As noted above, Unit 59 Dame Street was already operating as a retail shop. The Planning Authority considered the 'change of use' to be exempt under Schedule 2, Part 1, Class 14(c) of the 2001 Regulations in their declaration. It is noted that a subsequent planning application on subject site (Reg Ref. WEB5614/25) permitted a change of use from restaurant to retail /café use for the ground floor units.

8.2.6. As per Schedule 2, Part 1, Class 14(c) of the 2001 Regulations a change of use from restaurant to shop is allowed where Article 9 restrictions are not applicable. The restrictions are discussed in detail in the section below. I consider the change of use from restaurant to retail for units 60-61 to be exempt under Class 14 of Schedule 2 Part 1 of the 2001 Regulations.

8.2.7. On my site visit, I noticed that the current arrangement of Unit 59 included a dedicated ice-cream parlour area with associated internal seating for consumption within the premises as ancillary to the retail use. The partial change of use of this unit is not addressed in the referrer's question on change of use or within the Planning Authority's declaration. The internal seating area provided would approximately account to 10% of the floor area of Unit 59. The sale of ice-creams for consumption off premises of the Unit 59 would constitute retail use as it complies with the definition of a shop under Article 5 of the 2001 Regulations. However, the inclusion of a dedicated internal seating area for the consumption of food/drinks within the premises of Units 59 would be inconsistent with its use as retail floorspace. The referrer has not included such use of Unit 59 in the question or supporting documentation for contention and therefore it is not included in the subject referral determination.

8.2.8. Works to the Shopfront: The third question relate to the works carried out to the shopfront including changes to fascia level signage on all units, new paintworks and removal of stallrisers to increase glazed openings along shopfront of Unit 59. The referrer rationalises the works carried out to be exempt under the provisions of

Section 4(1)(h) of the 2000 Act. The Planning Authority considered the works to have material impact on the Protected Structure and therefore not to be exempt development.

8.2.9. The applicant has refurbished the shopfront, creating a uniform design with new signages in brass lettering against dark grey background paint, and full-length glazing for Unit 59 consistent with Unit 60-61 Dame Street. The alterations have altered the colour palette, signage design for all units. Ornamental features such as stallrisers from two large windows serving the corner unit no. 59 were removed. Changes were also made to the entrance arrangement for unit 60 increasing the glazed openings. Majority of the ground floor units along the north side of Dame Street are small retail shops, has a variety of colour schemes and smaller glazed openings. The works carried out have resulted in the substantial modifications to the original fenestrations, creating full scale windows along the street front and has resulted in creating a uniform shopfront that extends across the units 59-61 along Dame Street and wraps around to Eustace Street.

8.2.10. While I note that the buildings along Dame Street have a mix of architectural styles, given the prominent location of subject building along the street and its location within a special conservation area in the Development Plan, I consider the external and internal works carried out to have altered the character and external appearance of the building along the streetscape. The alterations carried out would not come within the scope of 'maintenance' and 'improvement' under Section 4(1)(h) as it has altered the street facing elevation and glazed openings here. I consider the changes to have materially altered the external appearance of the building to be inconsistent with the historic character of neighbouring units along Dame Street and the original character of the subject structure. The works to the shopfront would require planning permission. It is noted that the subsequent planning application on site permitted significant modifications to the shopfront elevations along Dame Street and Eustace Street facades.

8.3. Restrictions on exempted development

8.3.1. Restrictions on exemptions are set out in Article 9 of the 2001 Regulations. Restrictions detailed include non-compliance with planning permission conditions, endangering of public safety, interference with landscape value, impact to European site, impact to designated natural heritage area or materially affect the character of an architectural conservation area. Section 4(4) of the 2000 Act also restricts exempt development where an environmental impact assessment or an appropriate assessment is required for the works. Please see Section 9 and Section 10 of this report in relation to screening for Appropriate Assessment and Environmental Impact Assessment Screening.

8.3.2. Change of Use: Restrictions to Change of Use that are specified in Part 4 of Schedule 2 of the 2001 Regulations is set out within Article 10(1) of the 2001 Regulations and includes carrying out of any unauthorised works, contravention of a planning condition, inconsistent with any specified use within previous permission, and where existing use is an unauthorised use resumption of a use that is not unauthorised. The change of use of Units 60-61 from ‘restaurant’ to ‘retail’ when considered independent of the other works can be deemed exempt as per Schedule 2, Part 1, Class 14 (c) of the 2001 Regulations.

8.3.3. Protected Structure: Section 57 (1) of the 2000 Act also restricts exemptions for works to Protected Structure that materially affect the character of the structure or any element that contributes to its special (inter alia) architectural, historical or cultural interest. Part of the site, No. 1 and 2 Eustace Street, Shamrock Chambers, is listed in the Record of Protected Structures (RPS Ref. No. 2691) within the Development Plan. However, the entry specifically notes Shamrock Chambers for its stucco pedimented entrance door and flanking windows along the eastern elevation and central cage lift. It would appear that only the specified elements are protected. Subject application is made in relation to ground floor of units 59, 60-61 Dame Street. It is my understanding that units No. 1 and 2 Eustace Street provide the entrance to Shamrock Chambers and includes the access to the upper floors. There is no direct access from units 59-61 to the upper floor levels.

8.3.4. As per the Conservation Statement provided by the applicant for the recently permitted hotel application on subject site Reg Ref. WEB5614/25 (‘Architectural Heritage Impact Assessment for Shamrock Chambers’, dated 29 October 2025 by Historic Building Consultants), the ground floor street facing units were originally smaller shops, were amalgamated into one large unit in the 1890s and reverted back to being separate units in the 1960s. The Planning Authority’s Conservation Officer did not consider the units along Dame Street to be protected or to fall within the curtilage of the protected structure in the previous application (Reg. Ref. ABP-318298-23 /DCC Reg. Ref. 4249/23). In the recent application (Reg Ref. WEB5614/25), the Planning Authority's Conservation office was satisfied by the proposed alterations and refurbishments. Given the works are sufficiently separated from the special features noted in the Record of Protected Structures for Nos 1 and 2 Eustace Street, I am satisfied that the works carried out do not impact the special architectural, historical and cultural interest identified in the Record of Protected Structures for No. 1 and 2 Eustace Street.

9.0 Screening for Appropriate Assessment

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

9.2. The subject site is not located within a designated site, with the nearest site being South Dublin Bay and River Tolka Estuary SPA (site code 004024) and North Dublin Bay Natural Heritage Area (site code 000206) located 2.9km (east) downstream.

9.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could no have any effect on a European Site.

9.4. The reason for this conclusion is as follows:

- Scale and size of the proposed development
- The lack of connections to the SAC.
- Connection to public water, drain and sewer.

9.5. 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 (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Environmental Impact Assessment (EIA) Screening

10.1. 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.

11.0 Recommendation

11.1. I recommend that the Commission should decide this referral in accordance with the following draft order.

WHEREAS question has been raised as to whether the

(A) Removal of internal partition wall between units for the purpose of amalgamating the units into a singular unit

(B) Change of use from Restaurant *to* Retail use *for Unit 60-61 Dame Street*

(C) Works to shopfront

is or is not development or is or is not exempted development:

AND WHEREAS Chambers Properties Limited requested a declaration on this question from Dublin City Council and the Council issued a split declaration on the 19th day of December 2025 stating that the matters listed as item (A) and (C) of the referral were deemed as development and were not exempted development; and matters listed as item (B) was deemed to be development and is exempt development.

AND WHEREAS Chambers Properties Limited referred this declaration for review to An Coimisiún Pleanála on the 23rd day of January, 2026,

AND WHEREAS An Coimisiún Pleanála, in considering this referral, had regard particularly to –

(a) Section 2(1) of the Planning and Development Act, 2000, as amended,

(b) Section 3(1) of the Planning and Development Act, 2000,

(c) Section 4(1)(a) and 4(1)(h) of the Planning and Development Act, 2000, as amended,

(d) Section 57 (1) of the Planning and Development Act, 2000,

(e) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

(f) Parts 1 and 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,

(g) Class 14 (c) of Part 1 of Schedule 2 to the 2001 Regulations, andthe planning history of the site,

(h) the status of part of the building as protected structure

AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) The alterations carried out under items (A) and (C) of the referral relates to 'works' to the interior and exterior of the building and enables the amalgamation of two retail units would constitute 'development' as defined under section 3 of the Planning and Development Act 2000 (as amended);

(b) The change of use carried out under item (B) of the referral for units 60-61 from 'restaurant' to 'retail' constitutes a material change of use in the context of Section 3 of the Planning and Development Act 2000 (as amended) and therefore constitute 'development'.

(c) The removal of a section of interior wall for the amalgamation of units under item (A) of the referral does not fall within the scope of Section 4(1) (h) of the Planning and Development Act 2000 as amended, as they would not involve works for maintenance, improvement or alteration to a structure, but two separate units.

(d) The change of use of Units 60-61 Dame Street from restaurant to retail use as depicted under item (B) of the referral is considered to be exempt under Schedule 2, Part 1, Class 14 (c) of the Planning and Development Regulations, 2001 as amended.

(e) The external alterations made to the shopfront under item (C) of the referral would materially affect the external appearance and character of the buildings so as to render the appearance inconsistent with the character of the structure and with the character of neighbouring units along Dame Street thereby would not be exempt under Section 4 (1) (h) of the Planning and Development Act.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that

(a) The removal of a section of internal wall for the purpose of amalgamating the units into a singular unit is development and is not exempt development,

(b) The change of use from 'Restaurant' to 'Retail' use *for Unit 60-61 Dame Street* is development and is exempted development.

(c) The works to the shopfront is development and is not exempted development.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Sandra Eapen
Planning Inspector

21 July 2026

Form 1 - EIA Pre-Screening

<table>
<tr><td>Case Reference</td><td>ACP -324045-26</td></tr>
<tr><td>Proposed Development Summary</td><td>Change of use, interior and exterior alterations</td></tr>
<tr><td>Development Address</td><td>Units 59-61 Dame Street and Unit 1-2 Eustace Street</td></tr>
<tr><td></td><td>In all cases check box /or leave blank</td></tr>
<tr><td rowspan="2">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)</td><td>☒ Yes, it is a ‘Project’. Proceed to Q2.

Works comprise a project.
Change of use is not a project.</td></tr>
<tr><td>☐ No, No further action required.</td></tr>
<tr><td colspan="2">2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</td></tr>
<tr><td>☐ Yes, it is a Class specified in Part 1.

EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</td><td>State the Class here</td></tr>
<tr><td colspan="2">☒ No, it is not a Class specified in Part 1. Proceed to Q3</td></tr>
<tr><td colspan="2">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?</td></tr>
<tr><td>☒ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road</td><td></td></tr>
</table>

development under Article 8 of the Roads Regulations, 1994.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold.	
☐ Yes, the proposed development is of a Class but is sub-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)?	
Yes ☐	**Screening Determination required (Complete Form 3)**
No ☒	**Pre-screening determination conclusion remains as above (Q1 to Q3)**

Inspector: Sandra Eapen _Date: 21/07/2026