



An
Coimisiún
Pleanála

Inspector's Report

ACP.324119-26

Development	Section 254 Licence to place and maintain 8 tables, 24 chairs, 1 awning, 2 parasols, 9 windbreaks in an area of 25.2 sq. m.
Location	No. 7 New Street, Malahide, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	SFL/003/2026
Applicant(s)	Street & Soul
Type of Application	Section 254 Street Furniture Licence
Planning Authority Decision	Grant Licence
Type of Appeal	Third Party
Appellant(s)	Majella Dunne
Observer(s)	None
Date of Site Inspection	1st July 2026
Inspector	Erika Casey

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History	5
5.0 Policy Context	5
6.0 The Appeal	10
6.1. Grounds of Appeal	10
6.2. Planning Authority Response	11
6.3. Observations	12
7.0 Assessment	12
8.0 AA Screening	18
9.0 EIA Screening	18
10.0 Water Framework Directive	19
11.0 Recommendation	19
12.0 Reasons and Considerations	19
13.0 Conditions	20
Appendix 1: Form 1 EIA Pre-Screening	22

1.0 Site Location and Description

- 1.1. This section 254 licence was made in relation to a commercial premises currently occupied by a cafe called the Bean Box Cafe located on the western side of New Street, Malahide. New Street is located within the commercial centre of Malahide Town and is characterised primarily by commercial development including retail, public houses and food and beverage outlets interspersed with some residential properties. There are a number of other food and beverage enterprises along the street with similar outdoor dining areas on the public domain.
- 1.2. The current commercial unit occupies the ground floor of No. 7 New Street and has a traditional shopfront. The subject outdoor seating area is located adjacent to the property on the public street. It is separated from the main commercial building by the public footpath and a tree. At the time of site visit, the seating had been removed and the unit was closed. Windbreakers and planted boxes currently demarcate the seating area.
- 1.3. In recent years, New Street has been the subject of public realm improvements to pedestrianise the street. Such works include the provision of plant boxes and windbreakers etc. which have facilitated businesses along the street to utilise parts of the public realm for outdoor seating and dining. Demountable bollards currently preclude vehicular access. New Street is located within the Malahide Architectural Conservation Area.

2.0 Proposed Development

- 2.1. On the 27th of November 2025, a licence under section 254 of the Planning and Development Act 2000, as amended, was sought for the placement of street furniture on the public domain to the front of Unit no. 7, New Street, Malahide.
- 2.2. The licence application comprises: maintain 8 tables (60 cm diameter), 24 chairs, 1 awnings (4m x 1.5m), 0 coverings, 2 parasols (rectangle, block with logo – 2.5m x 4.5m), 0 shades, 9 windbreaks (colour: green) and 0 heaters in an area of 25.2 sq. m (2.8 m width, 9m length).

3.0 Planning Authority Decision

3.1. Decision

3.1.1 On the 6th of January 2026, Fingal County Council granted the section 254 licence. The licence specifies that it is subject to a minimum footpath clearance of 1.8m with accessibility to be maintained to all footpath users and that the daily hours of the licence are from 09.00 hrs to 22.00 hrs. The licence is valid for a period from the 01/01/2026 to the 30/09/2026. The licence also noted:

“Due to the planned public realm works at New Street Malahide in the second half of 2026, FCC reserves the right to amend the dates of Street Furniture Licences to facilitate works commencing at the location.”

3.1.2 The licence is subject to a number of standard conditions including condition 3 – the licensee is required to comply with all national and local legislation including intoxicating liquor legislation and condition 36 – which requires compliance with the Licencing Acts of 1833-2018 and the FCC (Prohibition of Consumption of Intoxicating Liquor on Roads and in Public Places) Bye Laws 2002.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- No report on file.

3.2.2. Other Technical Reports

- No report on file.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

Subject Site

P.A. Ref. No. SFCOVID1936: S254 Licence permitted a 25.2m² (2.8m by 9m) outdoor dining area accommodating 6 Tables and 24 Chairs. This licence expired on the 31st day of August, 2021.

ABP-312755-22 (P.A. Ref. No. S89/S254(6)(A)) - 7 New Street, Malahide. Grant Licence – 7th September 2022.

Other Relevant S254 Licences in the Vicinity

ABP-312759-22 (P.A. Ref. No. SFL/014/22) - 1 Rosses Lane, New Street, Malahide, Co. Dublin. Grant Licence – 7th September 2022.

ABP-312754-22 (P.A. Ref. No. SFL/005/22) – 5, 6 & 7 New Street, Malahide, Co. Dublin. Grant Licence – 7th September 2022.

ABP-312761-22 (P.A. Ref. No. SFL/015/22) – ‘A Do’, Rosses Lane, New Street, Malahide, Co. Dublin. Grant Licence – 7th September 2022.

ABP-312656-22 (P.A. Ref. No. SFL/019/22) – ‘Fowlers’, 12 New Street, Malahide, Co. Dublin. Grant Licence - 7th September 2022.

ABP-312760-22 (P.A. Ref. No. SFL/009/22) – ‘Al Fresco’, New Street, Malahide, Co. Dublin. Grant Licence - 7th September 2022.

ABP-312757-22 (P.A. Ref. No. SFL/009/22) – Unit 1, New Street, Malahide, Co. Dublin. Grant Licence - 7th September 2022.

ABP- 321657-25 (SFL/003/2025) - 4, 5, 6 and 7 New Street, Malahide, Co. Dublin. Grant Licence – 14th May 2025.

ABP-321659-25 (P.A. Ref. No. SFL/008/2025) – ‘Fowlers Pub’, 12 New Street, Malahide, Co. Dublin. Grant Licence - 14th May 2025.

5.0 Policy Context

5.1 Development Plan

5.1.1 The current operative Development Plan is the Fingal County Development Plan 2023-2029 (FCDP). The primary zoning pertaining to the commercial unit is TC –

ACP-324119-26

protect and enhance the special physical and social character of the town and district centres and provide and/or improve urban facilities. Restaurant/Café are permitted uses. The vision for this zoning objective is:

“Maintain and build on the accessibility, vitality and viability of the existing Urban Centres in the County. Develop and consolidate these Centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these Centres in accordance with the principles of urban design, conservation and sustainable development. Retail provision will be in accordance with the County Retail Strategy, enhance and develop the existing urban fabric, emphasise urban conservation, and ensure priority for public transport, pedestrians and cyclists while minimising the impact of private car-based traffic. In order to deliver this vision and to provide a framework for sustainable development”.

5.1.2 The site is within the Core Retail Area of Malahide.

5.1.3. Architectural Heritage Area: The site is in the Malahide Historic Core ACA. Table 14.24 of the FCDP provides direction for proposed developments within ACA's stating that changes and development within ACAs should be carried out in a manner sympathetic to its distinctive character and so the following should guide proposed new works within ACAs:

Public Realm Works

- Elements of existing street furniture such as original kerbing, paving, setts, post-boxes, railings, bollards etc. should be identified and retained.
- Any new street furniture (such as bins, lighting, signage-poles etc.) shall be of a high quality and consistent design with consideration given to their siting and location. Street furniture should be kept to a minimum and any redundant modern street furniture removed.
- In instances where the Council does not have direct control over street furniture, it will engage with the relevant agency/agencies, where possible, to encourage them to comply with the Architectural Conservation Area policies. "

- Works to improve the public realm such as new surfaces, dished pavements, traffic control measures including signage and ramps shall respect and enhance the essential character of the ACA.

14.19.3.3 Architectural Conservation Areas

- Signage in an ACA should be minimal, discrete and sensitively designed so as not to negatively impact on the special character of the area. All other external commercial elements or fittings such as canopies, lighting and menu boards should be kept to an absolute minimum.

Policy HCAP8 – Protection of Architectural Heritage- refers to the conservation, management, protection and enhancement of the architectural heritage of Fingal through the designation of Protected Structures and Architectural Conservation Areas.

Policy HCAP14 – Architectural Conservation Areas - 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.

Objective HCA024 – Alteration and Development of Protected Structures and ACAs

14.4.7 - Street Furniture

The provision of street furniture, including tables and chairs on public footpaths may be subject to license by the Planning Authority under Section 254 of the Planning and Development Act 2000 (as amended). Such seating areas should not obstruct ease of movement by pedestrians, including those with mobility impairments, the young, or persons using buggies/prams. Barriers around such seating areas should be of a suitable material, lightweight and easily demountable.

Street furniture may also include other pieces of equipment such as seating, planters, litter bins, phone boxes, lamp posts, bus shelters and notice boards. It is important that the location of such installations is carefully considered and has a

coordinated approach in order to avoid over proliferation or give rise to possible obstruction. Where street furniture becomes obsolete or is no longer fit for purpose it should be removed.

Section 14.20.10 - Section 254

Licences items and equipment placed on, under, over or along a public road such as street furniture and overground telecommunications infrastructure, have the potential to significantly impact on the quality of the environment within a given area. This includes development works regulated through Section 254 licencing requirements. In assessing applications under Section 254 of the Planning and Development Act 2000, (as amended), the Planning Authority must have regard to the relevant provisions of the Development Plan, any LAP in place and must give careful consideration to the impacts on public realm and visual amenity.

Other Objectives and Policies of Note

Objective CSO63 – Pedestrianised Core Malahide: Continue to promote and facilitate the recently implemented pedestrianised core of New Street, Malahide.

Objective SPQHO5 – Amenity of Town and Village Centres: Enhance the amenity of existing town and village centres, minimising clutter and proliferation of street furniture and provide guidance on public realm design, including wirescape, shopfront design, street furniture, climate resilient and pollinator friendly planting, signage and the adequate provision of bins and recycling options.

Policy CMP12 – Public Realm: Support and facilitate the provision of high-quality and attractive public realm that is accessible for all with a focus on improving connectivity and permeability in accordance with best practice public realm and guidance documents.

Objective CMO16 – Public Realm and Development: Encourage and facilitate the delivery of high-quality public realm in tandem with new developments throughout the County through the Development Management process and the retrospective provision in existing developments, including the provision of a pedestrianised core in town centres where appropriate.

Policy CMP34 – Road and Street Design: Ensure that roads and streets within the County are designed to balance the needs of all road users, including children and

other vulnerable road users and promote road safety, place-making and sustainable movement, providing a street environment that prioritises active travel and public transport whilst ensuring the needs of commercial servicing is accommodated.

Malahide Historic Core Architectural Conservation Area Statement of Character – December 2008

Public Domain: Agencies and service-providers carrying out works to the public realm e.g. footpaths, planting, street furniture, parking schemes, public lighting, etc., are required to consider the special character of the area as identified in this document, and should consult with the Planning Department and Conservation Officer of Fingal County Council.

Part 8 – New Street

A Part 8 proposal for public realm improvements and pedestrianisation of New Street was approved by Fingal County Council in 2024. The proposed development extends to the full length of New Street from Main Street/ The Mall (also known as The Diamond) in the south to Strand Street to the north and including parts of Main Street/ The Mall, Ross Terrace and Strand Street all at Malahide, Co. Dublin. It provides for upgraded footpath and street surface, landscaping and public seating, enhanced outdoor dining, water features and bicycle parking. The Part 8 was the subject of judicial review which was unsuccessful and the scheme was not quashed. It is understood that works on the Part 8 scheme are due to commence in August 2026.

5.2 National Planning policy

- 5.2.1 Architectural Heritage Protection Guidelines for Planning Authorities, 2004, as amended. This document provides guidance for the protection of structures, or parts of structures and the preservation of the character of architectural conservation areas.

5.3 Natural Heritage Designations

- 5.3.1 The proposed development site is not within nor is it adjacent to any designated site. The Malahide Estuary designated as an SPA, SAC and pNHA, is located c.144m to the northeast of the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The public road and footpath adjacent to Unit 7 has been in continuous commercial use for outdoor dining from June 2020 to present. The repeated annual grant of temporary licences for 6 years has resulted in the permanent commercial occupation of public road space. The licencing provisions of section 13 do not authorise permanent conversion of the public road for commercial use.
- The decision by FCC does not address the cumulative impact of the occupation of the space for 6 years, the intensification of commercial activity, the transformation of a transport corridor into a dining zone and the long-term impact on the function of the public realm.
- The subject road is zoned RD – to provide for road and transportation infrastructure. The zoning of the adjacent lands as TC does not extend commercial land use rights into the road corridor. It is submitted that a material change of use of land has arisen.
- States that there is no planning permission in place to authorise the change in use of a public road to commercial dining or the structural enclosure of the road. A street furniture licence is regulatory in nature and does not give planning permission.
- New Street is located within an ACA. The subject street furniture, erected continuously over 6 years, has materially altered the streetscape and historic character of the area. The cumulative impact of the semi-permanent commercial enclosure within the historic streetscape has not been adequately assessed.
- The public road is functioning as an extension of a licenced premises and is used for the service and consumption of alcohol. This gives rise to planning concerns including intensification and late evening use, noise and disturbance and impact on children.

- The area was redesigned under public realm works facilitating outdoor dining. Licensing is being used to regulate a long-term spatial outcome.
- The outdoor area is considered part of the commercial value of the premises and thus the public road space is being treated as part of the business asset.
- No Local Area Plan has been adopted and therefore, there is no statutory planning framework address the allocation of public realm for commercial dining, the cumulative impact of outdoor hospitality, balance between residential amenity and commercial intensification and ACA management strategy. Submits that the licencing regime is being used to regulate a long-term spatial outcome that would ordinarily require a plan led assessment.
- Administrative practice cannot dilute statutory planning requirements, and a limited licencing mechanism cannot replace the planning code. It is requested that the decision is annulled and that the Commission determine that the scale and permanence of the structure require planning permission. It is also asked that the Commission clarify that the repeated temporary licencing cannot lawfully facilitate permanent commercial occupation of a public road and to direct that any future occupation of the public road be subject to a proper planning assessment.
- The submission notes a history of enforcement complaints and litigation relating to the occupation of public road space and impact to the residential amenities of local residents.
- The appeal has a number of documents appended including copy of current licence and previous licences from 2020 onwards. Photographic evidence, development plan extracts, property sale brochure, evidence of public realm works, previous inspector's report and a high court order.
- Note: the appellant refers to section 13 of the Planning and Development Act 2024 throughout the appeal documentation. This section of the Act has not commenced.

6.2. Planning Authority Response

- No response received.

6.3. Observations

- No observations received.

7.0 Assessment

7.1. Introduction

7.1.2 The subject application is made under the provisions of Section 254 of the Planning and Development Act, 2000 (PDA), which relates to the licensing of appliances, advertisements, and cables etc. Note section 13 of the Planning and Development Act 2024 referred to in the appeal has not commenced. Subsection 5 under Section 254 states that 'in considering an application for licence under this section, a planning authority or the Board on appeal, shall have regard –

- (a) the proper planning and sustainable development of the area,
- (b) any relevant provisions of the development plan, or a local area plan,
- (c) the number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and
- (d) the convenience and safety of road users including pedestrians.

7.2 Proper planning and sustainable development of the area and relevant provisions of the development plan or a local area plan

7.2.1 Having undertaken a site visit and having examined the application details and the appeal documents and having regard to relevant policy context, I consider that with regard to the proper planning and sustainable development of the area and the relevant provisions of the development plan, the substantive issues pertaining to the proposed Section 254 licencing application can be assessed under the following headings:

- Background
- Principle of Development and Zoning
- Impact on the Character of the ACA
- Impacts on Residential Amenity

Background

- 7.2.2 This Licence application is for the placement of street furniture on part of the public realm to the front of a commercial food and beverage outlet at no. 7 New Street in Malahide for a temporary period of 9 months. From a review of the planning history and documentation submitted by the appellant, the area concerned has been in use for outdoor dining following the granting of a licence by Fingal County Council (FCC) under P.A. Ref. No. SFCOVID1936 in 2020. The use of this area, and other sections of the public realm along New Street, for outdoor dining was facilitated, initially, by changes in legislation introduced during the Covid pandemic to support the hospitality sector and through the pedestrianisation of New Street.
- 7.2.3 Plans to permanently pedestrianise New Street were announced by FCC in 2021. On the 16th of January 2024, following a period of public consultation, the Council approved the public realm improvement works for a pedestrianised New Street. The plans include dedicated areas for outdoor dining. The implementation of the works was delayed due to a high court challenge. However, this challenge was dismissed by the High Court. It is understood that works are due to commence in August 2026. This is reflected in the terms of the licence which note that it is limited to a period of 9 months as works are due to commence in the second half of 2026.

Principle of Development

- 7.2.4 One of the appellants key concerns is that there has been continuous commercial occupation of the public road since 2020 and that the repeated granting of licences has facilitated permanent commercial occupation of public road space. As detailed above, it is evident that since Covid, outdoor seating has been facilitated on New Street. However, what is before the Commission is a temporary licence pending the implementation of a permanent solution as permitted under the Part 8 scheme and it is considered that this application must be considered on its own merits.
- 7.2.5 As set out in the planning history section of this report, the precedence for outdoor dining at this location is well established and as evidenced by the granting of this Section 254 licence, and the planned public realm improvements works for New

Street, the continued use of this space for outdoor dining is supported by the local authority.

- 7.2.6 There is also strong policy support for the continuing pedestrianisation of this street, notably Objective CSO63 – Pedestrianised Core Malahide: Continue to promote and facilitate the recently implemented pedestrianised core of New Street, Malahide.
- 7.2.7 With regard to zoning, the appellant states that there is a zoning conflict as the public road is zoned RD and the TC zoning does not extend public rights into the road corridor. Having reviewed the zoning map, the subject commercial unit is zoned TC and the public road is identified as RD. It is noted however, from a review of the development plan text there is no zoning objective RD – Road. I note section 1.6 of the Plan states: *“In the event that any conflict or ambiguity arises between the Written Statement and supporting maps, the Written Statement shall take precedence”*. I consider, therefore, that the primary zoning objective that pertains to the site, its environs and the town centre is TC.
- 7.2.8 Under the ‘TC-Town Centre’ zoning, it is the objective to protect and enhance the special physical and social character of town and district centres and provide and/ or improve urban facilities. In my opinion, the provision of street furniture to facilitate outdoor dining, ancillary to an established commercial premises in the commercial centre of Malahide, accords with the zoning objective. The outdoor seating area will enhance the social character of the area and provide and/ or improve urban facilities. I consider that the proposal would promote the use of the public realm at this location, enhance the pedestrian character of the street, would help to create a sense of place and would contribute to the vitality and viability of this urban centre.
- 7.2.9 I note that concerns have also been raised by the appellant regarding the lack of a Local Area Plan and references the recent High Court order on this matter. Whilst I acknowledge that there is no current Local Area Plan in place for Malahide, I consider that the statutory County Development Plan sets out sufficient guidance and policy to guide the development proposed. As outlined in the policy context section above, there is specific policies to guide developments located within an ACA as well as guidance regarding street furniture and section 254 licences – sections 14.4.7 and 14.20.10 of the Development Plan refer. I also note a detailed

Part 8 scheme has been approved for New Street, that was subject to public consultation. This in my view is an appropriate plan led approach to the future development of the street and provides for an appropriate mix of commercial activity, enhanced landscaping and public realm works which will significantly enhance the pedestrian environment and character of the ACA. The current proposed section 254 licence must be viewed in that context, as a temporary measure pending the long-term development of the street in line with the permitted scheme.

- 7.2.10 I am satisfied that having regard to the objectives of the Development Plan, the zoning objectives pertaining to the town centre and the limited duration of the licence and the relevant planning history, that the proposed seating area is acceptable in principle.

Impact on Architectural Conservation Area

- 7.2.11 New Street forms part of the Malahide Historic Core Architectural Conservation Areas (ACA). Policy HCAP14 seeks to protect the special interest and character of ACA's and states that 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. It is the contention of the appellant that the continuous use of the street for outdoor dining has materially altered the historic character of the area.

- 7.2.12 As set out in section 2 of this report, this licence is for the placement of tables, chairs, parasols and windbreakers on part of the public realm to the front of an established commercial premises for a period of nine months. I consider that the subject seating area would support the continued use of the public realm along New Street as a safe place for outdoor dining and would contribute to the vitality and vibrancy of the street. It is considered that the current and proposed use of this space for outdoor dining, particularly when compared to its previous use for loading and the parking of vehicles, represents a positive contribution to the character and visual amenities of New Street and the ACA. The Licence does not include or necessitate any physical works or alterations to any building, structure or feature within the ACA.

Given the temporary nature of the licence, I am satisfied that the proposal would not have a material effect on the special character of the ACA.

Impact on Residential Amenity

7.2.13 The appeal raises concerns of nuisance, by way of noise and intensification of late evening use resulting from the serving of alcohol on the public road outside of the licenced premises. It is contended that the creation of this direct nuisance adversely affects residents and children.

7.2.14 As noted by the appellant, the licencing of alcohol is governed by separate legislation. There are specific conditions (as detailed in section 3) attached to the licence issued by Fingal County Council pertaining to these separate legal requirements. As detailed above, the use of part of the public realm to the front of the property for outdoor dining is acceptable in principle and would accord with the objectives for the area as set out in the Development Plan. Notwithstanding, I accept that the use of the public realm for outdoor dining etc has the potential to generate noise and general nuisance. In my opinion, an appropriate balance needs to be struck between the need to promote and support the commercial development of New Street and residential amenity. I am satisfied that this can be achieved by way of condition. In this regard, I note that Fingal County Council restricted the hours of the Section 254 Licence to between the hours of 09.00 and 22:00. Such a restriction is I consider reasonable given the nature of the licence and its location and will minimise adverse impacts on residential amenity. I recommend a condition is attached in this regard.

7.3 The number and location of existing appliances, apparatuses or structures on, under, over or along the public road

7.3.1 As detailed above, the subject seating area is one of a number of similar outdoor seating areas along New Street. However, I have no concerns regarding the layout and design of the seating area. It is an acceptable interim measure pending the full resolution of the design of the street through the proposed Part 8 scheme, due to be implemented shortly.

7.4 The convenience and safety of road users including pedestrians.

7.4.1 On the date of inspection, I noted that layout of the seating area had been arranged generally in accordance with the licence agreement issued by FFC. I observed no obstruction of the footpath and the public realm in the vicinity of the licenced area was well maintained free of litter. I note that it is a specific requirement of the licence to maintain a minimum footpath clearance of 1.8 metres with accessibility to be maintained to all footpath users.

7.4.2 I would recommend that the Commission include a similar condition should it see fit to approve this section 254 licence application. I would also recommend the inclusion of a condition that requires the removal of all items of street furniture belonging to the licenced premises outside of designated hours to facilitate street cleaning. I am satisfied that the seating area will not have an adverse impact on the convenience and safety of road users or pedestrians.

7.5 Other Issues

7.5.1 I note the appellant raises issues regarding unauthorised development. However, matters of planning enforcement fall under the jurisdiction of the local authority, who have approved the renewal of the section 254 Licence. I consider matters of enforcement are outside the scope of the Commission's functions.

7.5.2 I also note the appellant seeks that the Commission provide further direction regarding the need for planning permission for the seating area and that the licencing regime is being used to regulate a long-term spatial outcome. It is considered that these are matters outside of the scope of this assessment. As noted above, a Part 8 scheme for the permanent redevelopment of the street is due to commence in Autumn this year that will regularise seating areas on the street in a planned manner. This scheme has been subject to a detailed assessment and public consultation exercise. What is before the Commission is a temporary arrangement, which as detailed above, I consider appropriate in the interim period concerned.

7.5.3 With regard to the commercialisation of a public asset, this is not considered a planning matter.

8.0 AA Screening

- 8.1 I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 (as amended). The subject site is located on New Street in the urban centre of Malahide. The site is not on nor is adjacent to any designated European Site. The closest sites are those within the Malahide Estuary, c144m to the northeast. The Malahide Estuary designated as an SPA, SAC and pNHA.
- 8.2 This is a licence application made under section 254 of the Planning and Development Act 2000, as amended, for the placement of street furniture on the public domain to the front of No. 7 New Street, Malahide. No nature conservation concerns were raised in the planning appeal. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:
- The nature, scale and location of the works
 - The planning history and established use of the site
 - The distance to the nearest European site, intervening land uses and the lack of connections.
- 8.3 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.

9.0 EIA Screening

- 9.1 The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

10.0 Water Framework Directive

10.1 An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

11.0 Recommendation

11.1 I recommend that the Section 254 Street Furniture Licence be granted.

12.0 Reasons and Considerations

12.1 Having regard to the nature and extent of the proposed development for which a street licence is sought, to the location of the site on New Street, in the commercial centre of Malahide and the objectives for the area as set out in the Fingal County Development Plan, it is considered that subject to compliance with the conditions set out below, the temporary use of the street as an outdoor seating / serving area for no. 7 New Street would not seriously injure the amenities of the area, including the amenities of residential properties and would not have an adverse effect on the character and setting of the designated Architectural Conservation Area would not be prejudicial to public safety by reason of traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The Street furniture shall be arranged and maintained so as to maintain a minimum footpath clearance of 1.8 metres and so as not to obstruct the free-flow of pedestrian traffic.

Reason: in the interest of public safety.

2. Street furniture shall only be placed at the above location between 09.00 hours and 22.00 hours all items covered under this license, under the control of the applicants shall be removed outside of these hours.

Reason: in the interests of the amenities of the area.

3. Street furniture shall be maintained in a safe clean and tidy condition and adequate waste management facilities shall be maintained at the site by the applicant.

Reason: in the interests of the visual amenities of the area.

4. No outside amplification speakers / live entertainment shall be permitted without prior written consent from the planning authority and no speaker or amplifier within these premises shall be configured in such a manner so as to project sound onto the public footway.

Reason: in the interests of the amenities of the area.

5. All appropriate public liability insurances shall be in place for the duration of this licence.

Reason: In the interests of public safety.

6. The license permitted by this order shall expire on the 30th day of September 2026.

Reason: In the interests of the amenities 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 me, directly or indirectly, following my professional

assessment and recommendation set out in my report in an improper or inappropriate way.

Erika Casey
Director of Planning

2nd July 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	324119-26
Proposed Development Summary	Section 254 Licence to place and maintain 8 tables, 24 chairs, 1 awnings, 0 coverings, 2 parasols, 0 shades, 9 windbreaks and 0 heaters in an area of 25.2 sq. m.
Development Address	7 New Street, Malahide, Dublin
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?	☐ Yes, it is a 'Project'. Proceed to Q.2.
	☒ No, No further action required.
(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)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to	State the Class here

be requested. Discuss with ADP.	
☐ 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?	
☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	State the Class and state the relevant threshold
☐ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	State the Class and state the relevant threshold

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☐	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: 2nd July 2026