



An
Coimisiún
Pleanála

Inspector's Report

ACP-324320-26

Development

Street furniture

Location

Butlers Chocolates Café, 268
Rathmines Road, Dublin 6

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

SF27-2024

Applicants

Butlers Chocolates Café Rathmines

Type of Application

Section 254 Licence

Planning Authority Decision

Refuse license

Type of Appeal

First Party v. decision

Appellants

Butlers Chocolates Café Rathmines

Observers

None

Date of Site Inspection

24 August 2026

Inspector

B. Wyse

1.0 Site Location and Description

- 1.1. Butlers Chocolate Café Rathmines is located on the eastern side of Rathmines Road Lower close to its junction with Castlewood Avenue. It's within the busy commercial centre of Rathmines, in effect on Rathmines 'main street'.
- 1.2. The area the subject of the license application is part of the footpath in front of the café and a part of the road carriageway beyond the footpath. The latter area is part of the road contained within two footpath build outs to the north and south and which extends across the frontage of a number of shops. A line of planters defines the outer edge. A defined cycle lane runs alongside. The road is busy and accommodates several bus routes.
- 1.3. At the time of inspection there was a bench at the front of the cafe on the footpath and there were four tables, each with two chairs, placed to the front of the café on the road area.

2.0 Proposed Development

- 2.1. The application is for a licence, under Section 254 of the Act, to place street furniture to the front of the café. The public notices describe the street furniture as follows:
 - 1 no. external bench seat in an area 0.4x2.3m.
 - 10 no. external chairs and 5no.external tables in an area 2.1x5.5m.
 - 2 no. planters 1.6x0.4m.

The application form indicate hours of operation of 0700 to 1900.

Plans and images included.

The application appears to be for an extension to a previous licence granted under Ref. SF27/2024 (see below).

3.0 Planning Authority Decision

3.1. Decision

The decision to refuse the license extension refers to:

- The seating area is in a high-footfall location outside the Swan Centre.
- The street furniture would be placed within a loading bay next to a busy road and cycle lane, raising concerns about safety and accessibility. There is a step down from the footpath making it difficult for people with impaired mobility to access.
- There is a need to retain the loading bay for commercial vehicle access.
- The upcoming BusConnects project is also a factor.

3.2. Planning Authority Reports

3.2.1. Transportation Planning Division

Recommends refusal given concerns regarding the safety and proximity of the seating area to live vehicular and cycle traffic.

Report includes:

- The application is for an extension to the previously approved Section 254 licence (TPD Ref. SF27/2024).
- Being located outside the Swan Centre footfall is particularly high given the range of commercial uses in the vicinity.
- Placing the street furniture in the loading bay would not constitute a hazard to pedestrian traffic given the remaining footpath width, with the approved bench in situ, exceeds the desired 2.0m clear width, maintaining adequate pedestrian accessibility at this location.
- The proposed street furniture is located at the same level as the carriageway in close proximity to a heavily trafficked road. The immediately adjacent cycle lane is the busiest arterial cycle route in the city.
- The provision of street furniture within the carriageway during the Covid pandemic was considered acceptable in the context of outdoor only dining at that time, with little or no observable traffic.
- With business activity and vehicular and cycle traffic back to normal it is no longer considered appropriate to provide such seating within the carriageway.

- The premises is located along the approved BusConnects Templeogue/Rathfarnham to City Centre Core Bus Corridor Scheme where the existing loading bay is to be retained (drawing included).
- Dublin City Council Parking Enforcement advised that the loading bay should be fully reinstated to facilitate commercial vehicle access in the interim period prior to the implementation of the BusConnects scheme.
- The step down from the footpath to the outdoor seating area means that the proposal does not comply with accessibility requirements as set out in the *General Conditions for the Placing of Tables and Chairs Outside a Hotel, Restaurant, Public House or Other Establishment Where Food is Sold for Consumption on the Premises* and which requires that such areas shall be made accessible to everyone, including those with impaired mobility.

3.2.2. Other Technical Reports

Dublin City Council Office of City Recovery – essentially summarises the report from the Transportation Planning Division.

Dublin Fire Brigade – no objection subject to a number of conditions.

4.0 Planning History

TPD Ref. SF27/2024

This is the previously approved Section 254 licence. The application documentation submitted suggests that the licence was subject to the planning authority's general or standard conditions for the placing of tables and chairs outside such premises.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2022-2028

Zoning Z4 – Key Urban Village.

Policy CCUV20

To support the development, regeneration and or consolidation of Key Urban villages/urban villages as appropriate, to ensure these centres continue to develop their mixed used role and function adding vitality to these centres including through the provision of residential development.

Policy CCUV23

To promote active uses at street level in Key Urban Villages and urban villages and neighbourhood centres.

Policy CCUV32

Proposals for outdoor dining / trading from premises extending into the street will be supported where they would not harm local amenity or compromise pedestrian movement, accessibility needs or traffic conditions.

Rathmines Road indicated as a BusConnects Spine Route / Radial Core Bus Corridor – Map J.

Section 15.17.4 Development Management – Outdoor Seating and Street Furniture

In considering applications for outdoor furniture, the planning authority shall have regard to the following:

- *Size and location of the facility.*
- *Concentration of existing street furniture in the area.*
- *The visual impact of the structure, particularly in relation to the colour, nature and extent of advertising on all ancillary screens.*
- *Impact on the character of the streetscape.*
- *The effects on the amenities of adjoining premises, particularly in relation to hours of operation, noise and general disturbance.*
- *Impact on access and visibility.*

5.2. Natural Heritage Designations

None relevant.

6.0 Environmental Impact Assessment (EIA)

- 6.1. 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.

7.0 The Appeal

7.1. Grounds of Appeal

The main grounds can be summarised as follows:

- The outdoor seating area was first offered to us by DCC during the Covid-19 pandemic (2022). The area quickly became a vital part of operations, allowing trading to continue safely during the pandemic and helping to maintain employment.
- The seating remained until 2023 and was then removed due to license changes. Since removal the store has experienced a 20% drop in turnover.
- The structure in which the seating arrangement was located is still in place. It was provided and constructed by DCC. No loading bay operates currently in this location.
- The high-footfall actually enhances the suitability for licensed outdoor seating. Such seating can contribute positively to the vibrancy of the area without compromising pedestrian flow and safety. A raised platform previously installed to provide flush access was removed by DCC.
- The level change can be remedied by means of an external grade ramp to allow for Part M compliant access within the seating zone.
- The permanent planters installed by DCC effectively repurpose the space, preventing its use as a loading bay and creating a physical buffer to the cycle lane and enhancing safety.
- In relation to BusConnects it is understood that there are no immediate construction works or street level changes underway at this location. A time limited license, or one open to review, would be acceptable.
- Approving the license would significantly contribute to local commerce, encourage footfall and support the broader goal of animating public space in a safe and regulated manner.
- The viability of the store depends on outdoor seating.

7.2. Planning Authority Response

None received.

8.0 **Assessment**

- 8.1. The main issues in this appeal are those raised in the planning authority decision and the supporting report of the Transportation Planning Division and as responded to in the grounds of appeal and I am satisfied that no other substantive issues arise.
- 8.2. As per Section 254(5) of the Act the Commission, in considering an application for a license, shall have regard to; the proper planning and sustainable development of the area; any relevant provisions of the development plan; the number and location of existing appliances, apparatuses or structures on, under, over or along the public road; and the convenience and safety of road users including pedestrians.
- 8.3. Rathmines is a designated key urban village in the development plan and there is clearly support for enhancing its vitality, including outdoor dining and trading extending on to the street. However, it is also a requirement that it should not harm local amenity or compromise pedestrian movement, accessibility needs or traffic conditions (Section 5.1 above).
- 8.4. While it may not harm local amenity, although placing tables and chairs on the road carriageway hardly enhances it, or compromise pedestrian movement, the proposed table and chair seating area in the former loading bay does, as indicated by the planning authority, give rise to accessibility issues and concerns in relation to traffic conditions.
- 8.5. Being at road carriageway level and accessible only over a step down kerb from the footpath presents obvious difficulties for persons with impaired mobility. The applicants proposed ramp solution is unlikely, in my view, to be satisfactory, as the proposed layout would suggest that any such ramp would have to be placed beyond the frontage of the applicants premises and in front of adjacent premises. Presumably these premises would have to be consulted and agree to any such arrangement.
- 8.6. In relation to traffic conditions the planning authority, in my view, make a strong case that the loading bay needs to be reinstated. The location is in the heart of the busy commercial centre of Rathmines and loading bays are very important for the efficient operation of such areas. As indicated the loading bay was originally closed off and offered for outdoor seating as an exceptional and temporary measure during Covid 19 as an aid to businesses and in the context of little or no vehicular traffic. With normality

restored the need for the loading bay, in my view, is obvious, even prior to the full implementation of the BusConnects scheme. Rathmines Road Lower is heavily trafficked and includes the immediately adjacent very busy cycle lane. In this context ease of access for loading and unloading to commercial premises is at a premium. The implementation of the BusConnects scheme will only increase the importance of the loading facility. I do not consider, therefore, that a further time limited licence, as suggested by the applicants, would be appropriate.

- 8.7. I am also inclined to agree with the planning authority that the very close proximity of the tables and chairs to such a busy road, separated only by planters, does raise serious safety concerns.
- 8.8. I consider, therefore, that the decision of the planning authority to refuse the licence for the tables and chairs, and associated planters, should be upheld.
- 8.9. The other element of the proposal is the placing of a bench immediately in front of the café on the footpath. The planning authority Transportation Planning Division does not seem to have any difficulty with this. It indicates that even with the bench in place there would still be in excess of the desired 2.0m clear width on the footpath maintaining adequate pedestrian accessibility at this location (Section 3.2.1 above). I consider that this element of the proposal is acceptable and that it would be appropriate to grant a licence for same. A condition should be attached requiring compliance with the City Council *General Conditions for the Placing of Tables and Chairs Outside a Hotel, Restaurant, Public House or Other Establishment Where Food is Sold for Consumption on the Premises*.

9.0 **Appropriate Assessment (AA)**

- 9.1. The proposal does not involve a project for the purposes of AA.

10.0 **Water Framework Directive (WFD)**

- 10.1. The proposal does not involve a project for the purposes of the WFD.

11.0 Recommendation

11.1. As per Section 254(6)(b) of the Act I recommend that the Commission directs the planning authority as follows:

- (i) Grant a licence for 1no. external bench seat in an area 0.4x2.3m on the public footpath directly in front of the café.
- (ii) Refuse a licence for 10 no. external chairs and 5no.external tables in an area 2.1x5.5m and 2no. planters 1.6x0.4m on the road carriageway within the loading bay.

12.0 Reasons and Considerations

- (i) The proposed 1no. bench would not obstruct pedestrians on the public footpath and, subject to compliance with the following condition, would be in accordance with the proper planning and sustainable development of the area.

Condition 1

The street furniture licence is subject to the Dublin City Council *General Conditions for the Placing of Tables and Chairs Outside a Hotel, Restaurant, Public House or Other Establishment Where Food is Sold for Consumption on the Premises* (as attached to the Dublin City Council Street Furniture Licensing Unit application form version 01/2026).

Reason: In the interest of clarity.

- (ii) Having regard to the need to reinstate the loading bay at this busy location in the commercial centre of Rathmines, its inherent unsuitability for use as a seating area, being at road carriageway level and not safely accessible for persons with impaired mobility, and safety concerns arising from its close proximity to a heavily trafficked road, including a busy cycle lane, and noting

that the previous grant of a licence was for a temporary period only to address the exceptional conditions resulting from the Covid -19 pandemic, it is considered that the proposed 10no. chairs and 5no. tables and associated planters would not be in the interests of the convenience and safety of road users and would not be in accordance with the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

B. Wyse
Planning Inspector

17 September 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	ACP- 324320-26
Proposed Development Summary	Street furniture
Development Address	Butlers Chocolate Café, 268 Rathmines Road Lower, Dublin 6.
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 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	
☐ 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)	
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 ☐	
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ B. Wyse Date: __17 September 2026