



An
Coimisiún
Pleanála

Inspector's Report PL-500400-DN-25

Development	Retention of existing modified shipping container, previously approved reg.ref. 2069/19 and all associated site works. Permission for proposed associated planter boxes, screening, hardscaping, landscaping and all associated site works.
Location	Hole In The Wall Pub, Blackhorse Avenue, Dublin 7
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	WEB2499/25
Applicant(s)	Parkwall Taverns Limited
Type of Application	Retention
Planning Authority Decision	Grant Retention with Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	James Ryan
Observer(s)	Patrick Coyne

Date of Site Inspection

5 February 2026

Inspector

Una Crosse

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1.0 Site Location and Description

1.1. The site in question adjoins the Hole in the Wall pub located to the south of Blackhorse Avenue in Dublin 7 adjoining the Phoenix Park. The site has a stated area of 0.022 ha. with the red line boundary including the shipping container subject proposed to be retained, the area to the front of same, the adjoining covered area which accommodates internal seating and is denoted on the plans as a smoking shed, and the area in front of the pedestrian access to the park as well as up to the side boundary wall of the Hole in the Wall pub. There is existing external seating located to the front of the smoking shed. The site itself is hard surfaced with the Hole in the Wall pub to the northwest between the Phoenix Park and the public road. The car park area which is hard surfaced is located to the east between the public road and the park rising above the public road to the east with an embankment.

To the north of Blackhorse Avenue there are existing residential properties which adjoin the public road.

2.0 Proposed Development

2.1. As Submitted

The proposal comprises two elements as follows:

Retention permission is sought for the existing modified shipping container which has a stated gross floor area of 13.9 sq.m and which was previously approved by Reg. Ref. 2069/19 and which facilitates 'to go' coffee and snacks during the hours of 7.30 am to 8 pm Monday – Sunday: and

Permission for proposed associated planter boxes, screening, hardscaping, landscaping and all associated site servicing and development works.

These elements are proposed in front and in the vicinity of the shipping container proposed to be retained and the adjacent existing external seating area and smoking shed.

2.2. In response to Further Information

The further information response included a DMURS statement and Stage 1 RSA which included the following elements:

- Extending the footpath across the site from the Hole in the Wall pub, in front of the container and smoking shed creating a green area, between the path and the public road edge, a right angle turn and continuing along the edge of the public road to the embankment.
- At the eastern end of the car park, a pedestrian crossing with associated kerbing and paving.
- Refurbished two-way entrance of 6metres in width with paving, kerbing and signage with sightlines of 2.4m x 43m in both directions.
- Upgraded cycle parking providing 26 Sheffield Stands and 3 EV bays

3.0 Planning Authority Decision

3.1. Decision

Permission granted on 10 November 2025 subject to 14 conditions which include:

- Limited to 5 years (C.3)
- Associated planter boxes and screening to be omitted (C.4)
- Opening hours from 7.30 am to 8 pm (C.5)
- No display of goods outside the container (C.6)
- Within 8 weeks of final grant – details of range of food to be sold and method of heating to be submitted for written agreement (C.7)
- No additional signage (C.8)
- Transportation Conditions (C.9)
 - Full detailed design of all works to public road and public realm including pedestrian crossing to be submitted and agreed.
 - Revised site plan illustrating minimum 1.8m footpath width between bollards and planting area.
 - 1 cargo bike space.
 - Costs at developers expense and code of practice to be followed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

First Report – 15 August 2025

Application was received on 27 June 2025. The evaluation presented is summarised as follows:

- Previous report on 2019 proposal noted no particular objection given the existing site use and would not be an unacceptable intensification and outlines considerations in respect of the sale of different food types which were restricted with a separate permission required to regularise the limited sale of hot food.
- In reviewing the previous report, the current report outlines no objection to the structure itself but considering that the proposed screening would be unnecessary.
- With respect to ownership issues outlined referenced is made to a previous report where these matters were addressed noting that the planning system is not designed to resolve such matter but noted that while the car park is owned by DCC, the area upon which the container is located is outside that area. It was noted that the matter could be addressed by further information.
- Reference is made to a report from the City Archaeologist on a previous report on the site
- Further information requested from Transportation noted
- No EIA or AA issues arising.

Post-Further Information Request – 10 November 2025

- Further information submitted on 14 October 2025
- Outlines the FI request and the report received from Transportation Section (see below).
- Sufficient legal interest in the lands to make the application.
- No ground being broken so no need to attach an archaeological condition.
- Structure is temporary so temporary permission appropriate.

- Considered scope for reheating/heating of foods prepared elsewhere as opposed to providing hot food.
- Recommended that screening measures be omitted.
- Noted that this permission does not relate to any existing outdoor seating in the vicinity.

3.2.2. Other Technical Reports

Transportation – First Report – 6th August 2025

- Section 8.5.8 and Objective SMT027 – road schemes (see policy section below).
- At time of writing – no resources, funding and staff to allow for progression of the project. Given roads objective reasonable that permission within or adjacent should be temporary in nature which can be addressed by condition.
- Blackhorse Ave classified as a Link Street in DMURS and revised drawings sought to confirm compliance with DMURS – footpath, verge width in context of location of proposed planters etc. FI also requested on sightlines and Stage 1 Road Safety Audit required, the measures for which to be implemented.
- No issues raised on car or bicycle parking. FI requested

Transportation – Second Report – 6th November 2025

- Outlines response which includes additional works some of which, while outside redline, are stated to be within applicants' control.
- Notes that matters are to the satisfaction of the Department or can be conditioned.
- Proposed pedestrian crossing appears to have arisen from the RSA, no issue with same subject to detailed design and subject to parts being taken in charge.
- Permission recommended subject to conditions.

Drainage

Drained on completely separate foul and surface water system.

Development Contribution Calculation

€1,695.80.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

Number of observations received the matters raised within which are outlined in the grounds of appeal and observation below.

4.0 Planning History

There is an extensive planning history on this site as follows:

Reg. Ref. 2069/19 – 5 year temporary permission granted for a modified shipping container (6m x 2.5m) adjacent to existing seating area – to be used as a facility for serving ‘to go’ coffee and snacks from 07.30am to 8pm Monday to Sunday (Condition 7 condition use as a coffee kiosk only with no sale of alcohol, cooking of food or sale of hot food).

Reg. Ref. 3287/24 - permission refused for alterations to the seating area including planters, paving, footpaths – visual, residential amenities and contrary to policies of development plan related to heritage and zoning.

Reg. Ref. 3933/23 – split decision. Permission granted for 18 bicycle parking spaces to the east of Dash (the shipping container). Permission refused for alterations to the seating area including planters, paving, footpaths (reason as above).

Reg. Ref. 3553/22 – permission refused for revised opening times from 07.30 am to 20.00 pm to proposed 06.30 am to 21.00 pm due to potential impacts on residential amenities.

Reg. Ref. 4685/18 – permission granted for refurbishment of existing shopfront to allow opening of fixed windows between 07.30am to 8pm Monday to Sunday with Condition 2 noting the hatch to be used in conjunction with the coffee kiosk area with no alcohol or takeaway food with the hatch to be closed from 18.00 pm to 7.30 am.

Enforcement History

E0716/24 – Expiration of permission

E0845/20 – Extension to container

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

- Site is zoned Z1 – to protect, provide and improvement residential amenities.
- Section 14. 7.1 – Sustainable residential neighbourhoods
- Located within the conservation area associated with the Phoenix Park.
- Phoenix Park boundary wall is a protected structure – 6781
- Entire Park is on the Record of Monuments and Places comprising an ‘archaeological complex’ (RMP DU018-007).
- Section 11.5.3 of Plan related to built heritage assets
- BHA2 – Development of protected structures
- BHA9 – Conservation areas
- BHA26 – Archaeological heritage
- BHA019 – Built heritage and archaeology
- SMT027 – Road, street and bridge schemes – Blackhorse Avenue
- 15.17.4 – Outdoor seating and street furniture
- 15.17.5 – Shopfront and façade design

5.2. Natural Heritage Designations

The site is not within or close to any sites with a natural heritage designation.

5.3. EIA Screening

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 Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal, received from James Ryan is appended with photographs, letters/reports and a petition from a number of adjoining residents, is summarised as follows:

Non-compliance with planning policy

- Conditions 4, 6,7 & 11 of original permission – since operation of business with multiple enforcement notices (detailed summary outlined with photos attached)
- Use of Section 173 (past failures to comply) should have been used as a material consideration to refuse permission.
- Granting permission would further exacerbate current issues, set inappropriate precedent, undermine integrity of planning system and increase further injury to amenities

Permission Term Length

- Unclear from DCC report why 5-year term was permitted given breaches.
- Reference to comment in roads report to roads objective and temporary permission.
- Renewal of permission will impede planning road alignment.

Procedural & Documentation Deficiencies

- Non-compliance with conditions not used as material consideration to refuse with no rationale in planners report.
- Inconsistent handling of applications with reference to content of planners report of 3552/22 regarding operational procedures of the kiosk/truck and continued operation of same.

- DCC may have looked at proposal in isolation without consideration of planning history with history of site of critical importance.
- Condition 9 refers to a seating area but proposal does not reference same with seating area at premises unauthorised.
- RSA requested by FI but mitigation measures in same have not been implemented with permission dependent on same with details on sightlines illegible.
- Concern that DCC treated observations submitted without sufficient merit.

Residential Amenity/environmental impacts

- Visual amenities significantly eroded and noise and disturbance increased due to proposed container.
- While principle for use may not be unacceptable (ref to planners report), should be predicate on operation in practice with photographs outlining breaches of conditions changing appearance of the area.
- No demonstrable need for a second operation on the site with existing pub serving same.

Traffic and Transport

- Measures should have been resolved as per planners report with no timeline provided.
- Multiple generation of residents have extensively used the public car park for parking and community events;
- Sought the proposed road realignment works are completed with endeavours for same outlined with correspondence from 2001 and petition from 2023 which resulted in revised road alignment – November 2024.

6.2. Applicant Response

A response received from the applicant is summarised as follows:

- All photographic material of breaches presented were breaches but are not current breaches.

- Extensive work undertaken by applicant with DCC advice to bring site into full compliance with planning permission and once work done, retention application submitted and granted providing compliance with 2069/19 which was for 5 years.
- Extensive dialogue between DCC and applicant over 18 month period.
- Site now vastly different and appeal submitted not reflective of up to date situation with grant of permission reflective of present situation.

6.3. Planning Authority Response

Response outlined the following:

- Commission uphold decision and request if permission is granted that a section 48 condition is included.

6.4. Observations

An observation from Patrick Coyne has been submitted and includes many of the same issues raised in the appeal under the following headings with additional points raised included:

- Persistent non-compliance with planning conditions;
- Permission term length noting that granting a long-term extension would obstruct statutory infrastructure objectives and compromise public safety.
- Procedural and documentation deficiencies relating to road safety audit, misinterpretation of observations as considering the expired permission was a delay, inconsistent handling of applications and seating area deficiency.
- Residential amenity and environmental impacts including risk to the protected Phoenix Park wall with containerised form and commercial branding completely out of place, visual jarring impacting the historic context with development plan policies BHA1, BHA2 and BHA 9 requiring need to safeguard heritage.
- Traffic and Transport concerns with residents petition and reliance of residents on the car park with changes made to car park without consultation with permission delaying essential safety works now tentatively scheduled for 2028.

6.5. Prescribed Bodies

A number of prescribed bodies were notified of the development subject of this appeal by correspondence dated 12 January 2026. An Taisce responded with the following comments:

- Deviation from approved plans subject of application would have a negative impact on this historic pub and protected Phoenix Park wall.

7.0 Assessment

I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance. 8.1.2 I am satisfied the substantive issues arising from the grounds of this third-party appeal relate to the following matters;

- Procedural Matters
- Principle of Proposed Development
- Residential Amenities
- Transport Related Matters
- Cultural Heritage Considerations
- Appropriate Assessment
- Water Framework Directive

7.1 Procedural Matters

The appellant and observer provide details of the history of enforcement undertaken in respect of the proposal and they refer to section 173 of the PDA as it relates to past failures. While I acknowledge that the appellants have been actively engaging to seek compliance with the permission pertaining to this structure, An Coimisiún Pleanála is not an enforcement authority, and this is a matter for the Planning Authority. I would note, as outlined in the applicants response, has been altered to address the matters outlined in respect of noncompliance matters.

7.2 Principle of Development

The use is open for consideration within the zoning pertaining to the lands (Z1). The site is located in close proximity to the Hole in the Wall pub and adjoins a pedestrian entrance to the Phoenix Park. Its location within a car park which services both the above facilitates an appropriate mix of uses. While I address the Roads Objective in the next section, given the temporary nature of the structure, I consider it is reasonable to limit the permission to a period of 5 years.

7.3 Transport Related Matters

There are a number of related matters in respect of transport related considerations. Firstly, the consideration of the local objective pertaining to the upgrade of Blackhorse Avenue. Secondly, the works associated with the further information request and Road Safety Audit and finally the use and availability of the car park. I will address each in turn.

7.3.1 Upgrade works to Blackhorse Avenue

Concern is expressed in the grounds of appeal that the proposal would impact the delivery of the works to upgrade Blackhorse Avenue which are included within the Development Plan under Objective SMT027. I would note that the Transportation Department provide clarity on this matter stating that there are no resources, funding and staff to allow for progression of the project. They outline that permission within or adjacent should be temporary in nature which can be addressed by condition and they consider that this is reasonable. I would tend to agree and should the Commission be minded to permit the proposal, the inclusion of a condition limiting the period of the permission to 5 years would be appropriate.

7.3.2 Compliance with DMURS and Stage 1 Road Safety Audit

A considerable request for further information emanated from the Transportation Department in relation to compliance with DMURS. In addition, a Stage 1 Road Safety Audit was requested. These include a number of measures to the public road in the vicinity of the site. The measures which are set out in Section 2.2 above and in summary comprise, a new footpath across the front of the site, a pedestrian crossing, a formalised entrance, cycle parking and EV charging points.

I have a number of concerns in respect of the measures set out.

Firstly, the works do not form part of the application and have not been the subject of public notice. The response to the further information was not considered significant and readvertisement sought.

Secondly it is not clear whether the applicant has sufficient legal interest to carry out the works and it is not clear what lands are within the control of the Local Authority.

In addition, the works comprise an extended footpath and works to the public road including a pedestrian crossing located along a public roadway which is subject to an objective for future upgrade works. While as outlined above, these works are not proposed within the short term, it is arguable that the works required within the RSA and DMURS compliance report would comprise works which may form part of the future upgrade works.

Finally, the decision of the Planning Authority provides for a temporary permission and as recommended herein, I consider this is reasonable. It would appear that the works proposed are disproportionate to this temporary use. Furthermore, the use itself is not a destination but rather complements the existing commercial public house use and the access to the Phoenix Park and this car park and existing uses would continue to use this car park in the absence of these works if the permission for the temporary continuance of this use was not permitted. In this regard I do not consider it appropriate to condition the works proposed within the further information response as included within the PA suite of conditions.

7.3.3 Car Parking

Finally, I would note the concerns regarding the unavailability of the car park for use by local residents for parking or community events. I would note that this is a public car park and is used for parking for a range of existing purposes outside of those visiting the subject café. I do not consider it is reasonable to refuse permission for the subject proposal on this basis.

7.3 Residential Amenities

The café use has proposed hours of operation that extend from 7.30 am to 8pm. This is considered appropriate having regard to the local environment and would

ensure that the residential amenities of local residents would not be impacted. I would tend to agree with the planning authority that the works proposed to screen the development is over complicated and would, I consider, create visual clutter rather than perform any meaningful screening function.

7.5 Cultural Heritage Considerations

I note the concern expressed in respect of the impact of the container and related development on the adjoining Phoenix Park wall which is a protected structure and the Hole in the Wall public house also a protected structure. The container is not affixed to the wall and while blocking views of c.6 metres of the wall due to its location, I do not consider that this has any significant effect on the setting of the wall. I would also note that the container is not visible within the Park itself as it does not extend above the wall. Given its location away from and not block any views of the Hole in the Wall pub, it does not have any significant effect on the Hole in the Wall pub

7.6 Appropriate Assessment

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

The appeal site is located in a serviced suburban area in Dublin 7 and the proposed development comprises the retention of a shipping container for 'to go' coffee sales. 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:

- Nature of the works: e.g. small scale and nature of the development.
- Location in a suburban area at a remove from the nearest European site and with a lack of potential connections.

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.

7.7 Water Framework Directive

The appeal site is located in a serviced suburban area in Dublin 7, a considerable distance from any surface water feature. The proposed development the retention of a shipping container and does not comprise any other works. No water deterioration concerns were raised in the planning appeal.

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

- Nature of works: e.g. small scale and nature of the development.
- Location-distance from nearest Water bodies and/or lack of hydrological connections.

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

8.0 Recommendation

- 8.1. I recommend that a temporary permission should be granted in respect of the proposed development subject to conditions as set out below.

9.0 Reasons and Considerations

Having regard to the location of the development within an existing car park adjoining an existing commercial premises and a pedestrian access to the Phoenix Park it is considered that the proposal would accord with the policies and objectives of the Dublin City Development Plan 2022-2028 and limiting the permission to a 5-year period would protect the residential amenities of the area. The proposed development would therefore, accord with the proper planning and sustainable development of the area.

10.0 Conditions

1	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 27th day of June 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The period during which the development hereby permitted may be carried out shall be 5 years from the date of this Order. The structure shall then be removed unless, prior to the end of the period, permission for its retention shall have been obtained.</p> <p>Reason: Having regard to the nature and location of the development, the Commission considers it appropriate to limit the period of validity of this permission of five years to allow for a review of the development having regard to the circumstances then pertaining.</p>

3	<p>The proposed development shall be amended as follows:</p> <p>(a) the planters and associated screening shall be omitted</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of visual amenity.</p>
4	<p>The facility shall only be open to the public between 7.30am to 8pm</p> <p>Monday – Sunday</p> <p>Reason: In the interest of orderly development</p>
5	<p>Within 8 weeks of this Order the applicant shall submit for the written agreement of the planning authority details of the range of foods to be sold from the container cafe, and methods to heat/reheat food items on site.</p> <p>Reason: in the interest of orderly development</p>
6	<p>No signage, advertisement or advertisement structure (including that which is exempted development under the Planning and Development Regulations, 2001 (as amended)), other than those shown on the drawings submitted with the application, shall be erected or displayed on the structure or within the curtilage of same unless authorised by a further grant of planning permission.</p> <p>Reason: In the interest of visual amenity and to protect the character of the area.</p>
7	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable</p>

<p>indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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

Una Crosse
Inspectorate

9th March 2026

Appendix 1 - Form 1

EIA Pre-Screening

Case Reference	
Proposed Development Summary	Retention of existing modified shipping container, previously approved Reg. Ref. 2069/19 and all associated site works. Permission for proposed associated planter boxes, screening, hardscaping, landscaping and all associated site works.
Development Address	Hole In The Wall Pub, Blackhorse Avenue, Dublin 7
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development	

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

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