



An
Coimisiún
Pleanála

Inspector's Report

PL-501000-DS-26

Development

(i) Change of use of the existing single-storey garden room (12 sqm) and ancillary garden shed within the rear garden of no. 5 New Ireland Road, Rialto, Dublin 8 D08 X7FY, to takeaway café use for the sale of hot and cold beverages and baked goods; and (ii) all other ancillary works necessary to facilitate the development

Location

Lands to the rear of 5 New Ireland Road, Rialto, Dublin 8

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

WEB6035/25

Applicant(s)

James McGovern

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

First party

Appellant(s)

James McGovern

Observer(s)

Padraig O'Dowd

Sarah Moore

Patrick Humphreys

Michael O'Mahoney

Kathleen O'Mahoney

Date of Site Inspection

13 June 2026

Inspector

Killian Harrington

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1.0 Site Location and Description

- 1.1 The subject site is a residential property in Rialto, Dublin 8. The property no. 5 New Ireland Road is a two storey terraced house located in close proximity to the junction with South Circular Road to the east. The site backs onto the former Grand Canal Bank towpath and the Luas red line, both of which runs adjacent to the rear garden of the property. The former towpath has been arranged as a linear park with a shared pedestrian/cycle route running from Anne Devlin Bridge/Dolphin Road to South Circular Road. The surrounding area is mixed with commercial units along South Circular Road to the east and Kilmainham to the north and largely residential properties to the west and south of the site with similar terraced from with front and rear gardens with some dwellings converted into business premises.

2.0 Proposed Development

- 2.1 The proposed development consists of: (i) Change of use of existing single-storey garden room (12sqm) and ancillary garden shed (10sqm) within the rear garden of No. 5 New Ireland Road, to takeaway café use for the sale of hot and cold beverages, and baked goods and (ii) all other ancillary works necessary to facilitate the development including limited outdoor seating on-site. In terms of the type of cafe, the applicant is applying for a coffee shop use with a takeaway element for serving hot and cold beverages and also baked goods, made off-site.

3.0 Planning Authority Decision

3.1 Decision

Dublin City Council refused permission with the following reason for refusal:

1. The proposed development, by reason of its location in the rear garden of a residential property, in an area with zoning objective Z1 - 'to protect, provide and improve residential amenities', would result in an incongruous form of development, which would set an undesirable precedent in the area, and would seriously injure the residential amenities of property in the vicinity, as a result of

noise and general disturbance, which would thereby be contrary to the Z1 zoning. The proposed development would be contrary to Section 15.14.7.2 of the Dublin City Development Plan 2022-2028, in relation to restaurants/cafes, and to the proper planning and sustainable development of the area.

2. The applicant has failed to demonstrate that the proposed development can be adequately serviced from the adjacent public road network. The proposed development would give rise to haphazard servicing activity and refuse collection thereby causing obstruction to pedestrians/cyclists and other road users both within the adjoining towpath public park and adjacent road network. The development and associated servicing requirements would give rise to commercial activity on a residential street thereby negatively impacting residential amenity. The proposal is therefore considered contrary to Policy SMT18 and Appendix 5, Section 2.4 of the Dublin City Development Plan 2022-2028 and would endanger public safety by reason of traffic hazard. The development would set an undesirable precedent for similar locations within the local area and wider city.

3.1.1. Planning Authority Reports

After reviewing the submitted proposal and having regard to the observations on file from residents and also the concerns set out in the Transportation Planning report, the Planning Authority had concerns regarding both the precedent of this commercial use, and also the impact of the proposal on the adjoining properties which are residential in nature. It was found that the proposal for a coffee shop with a takeaway element, and also with outdoor seating for up to 6 people, would result in excessive noise and general disturbance to the properties on either side and in the vicinity and would seriously injure their residential amenity, and create an undesirable precedent for similar developments in this area. The proposed development would be contrary to the Z1 zoning objective for the area which is 'to protect, provide and improve residential amenities', and would be contrary to the proper planning and sustainable development of the area. It was therefore recommended that planning permission be refused.

3.1.2 Other Technical Reports

- Drainage Division - No objection subject to a standard condition.
- Transportation Planning Division – Recommends refusal

3.3. Prescribed Bodies

Transport Infrastructure Ireland (TII) requested that the planning authority has regard to the provisions of official policy for development proposals as follows: proposals impacting national roads, to the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities and relevant TII Publications and proposals impacting the existing light rail network to TII's Code of Engineering practice for works on, near or adjacent the Luas Rail System.

3.4. Third Party Observations

A number of submissions were received mostly objecting to the proposal and can be summarised as follows:

- Site is zoned Z1 residential and not suitable for commercial use
- There would be environmental nuisance such as noise, vermin, smells, litter and anti-social behaviour
- The site is not appropriate for servicing and public access and there is a lack of traffic impact assessment
- There would be road safety and public safety issues and would impact on an active travel route
- There would be an impact on neighbour privacy and would appear overbearing
- Would allow future food sale and would be unenforceable
- The proposal would negatively impact on property values
- Concern about drainage and sanitary issues
- Concern about the hours of operation

- There are already coffee shops and kiosks in the area
- There is already a small pharmacy operating to the front of 1 New Ireland Road and is on the corner of South Circular Road
- Precedent refusal on New Ireland Road (see Ref. 2930/19 ABP Ref. 304993-19) at number 3 New Ireland Road
- A letter of support notes that the proposal would provide a commercial function and can be supported in the Development Plan under CCUV22, CEE1, 2 and 4, and CEE11. The site is zoned Z5, and borders on a Z8 zoning. Conditions can be imposed on noise and operations

4.0 Planning History

Subject site

- Reg. Ref. 4598/22: Planning permission granted at number 5 New Ireland Road for provision of a new vehicular access and driveway to the front garden of the existing two storey terraced house including new boundary treatment and gate.

Adjacent sites

3 New Ireland Road Dublin 8

- Reg. Ref 2930/19 (ABP-304993-19). – Planning permission refused by DCC and ACP for (1) Proposed dormer to rear projecting above existing ridge - to include family room/gallery on 2nd floor of existing family terrace home. (2) Provision of vehicular entrance to rear garden to accommodate car park area - with access from existing laneway leading from South Circular Road. (3) Provision of Velux roof lights to front elevation - together with all ancillary works.

Reasons for refusal:

1. It is considered that proposed dormer extension, by reason of the projection above the roof ridgeline of the terrace of five houses and, the excessive scale and proportions relative to the rear roof slope in width and depth, would be visually dominant, obtrusive and out of character with the existing and adjoining dwellings within the terrace. As a result, it would seriously injure to the visual amenities of the terrace of dwellings in views from the public realm along adjoining linear pedestrian and cycle route which forms part of the Grand Canal bank path within the city's green network. Furthermore, it would give rise to an undue degree overlooking of the rear gardens of the adjoining houses which would seriously injure the residential amenities of those properties. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed creation of a vehicular entrance at the rear of the property would lead to obstruction and conflict with pedestrian and cyclist movements along the public cycle and pedestrian path within the green network in an area subject to the zoning objective Z9: "to preserve, provide for and improve recreational amenity and open space and green networks" over which access via a restricted key holder operated barrier to and from the South Circular Road at Rialto Bridge, close to the site location would be required. As a result, the proposed development would endanger public safety by reason of traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1 Development Plan

The Dublin City Development Plan, 2022-2028 identifies that the site is located within an area zoned Z1 Sustainable Residential Neighbourhoods with the objective 'To protect, provide and improve residential amenities'. Under this zoning, a café/tearoom is 'open for consideration'. Such a use is one which may be permitted where the planning authority is satisfied that the proposed development

would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area.

The following sections are relevant to the appeal:

Chapter 15 Development Standards

- *Section 15.14.7.2 Restaurants/Cafes*

The positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city is recognised. In considering applications for restaurants, the following will be taken into consideration:

1. The effect of noise, general disturbance, hours of operation and fumes on the amenities of nearby residents.
2. Traffic considerations.
3. Waste storage facilities.
4. Hours of operation.
5. The number/frequency of restaurants and other retail services in the area.
6. The contribution to the vitality and viability of the area.

- *Section 15.14.7.3 Fast Food/Takeaways*

In order to maintain an appropriate mix of uses and protect night-time amenities in a particular area and to promote a healthier and more active lifestyle, it is the objective of Dublin City Council to prevent an excessive concentration of take-aways and to ensure that the intensity of any proposed take-away is in keeping with both the scale of the building and the pattern of development in the area.

The provision of such facilities will be strictly controlled, having regard to A number of criteria.

- *Section 15.14.7.4 Noise, Odour, Ventilation for Restaurant / Café / Take – Away*

Café, restaurant and take away uses should be designed having regard to the appropriate noise and ventilation guidelines. All ventilation proposals should avoid direct extracts at street level, where possible. Where extract odour and ventilation is required on main street frontages, careful design solutions should be provided to extract does not interfere with pedestrians and road users in terms of noise and odour. Similarly, noise associated with the use of a café / restaurant / take away should be minimised as to ensure no overspill to street level occurs. Café and restaurant proposals should include an engineering statement to address, noise, ventilation and odour as part of any planning applications.

Policy SMT18 – The Pedestrian Environment

To continue to maintain and improve the pedestrian environment and strengthen permeability by promoting the development of a network of pedestrian routes including laneway connections which link residential areas with recreational, educational and employment destinations to create a pedestrian environment that is safe, accessible to all in accordance with best accessibility practice.

Appendix 5 Transport and Mobility – Technical Requirements

- *Section 2.4 Service Delivery and Access Strategy*

Having regard to the limited capacity on streets, service areas shall be provided where possible within the curtilage of the site. These areas are to be used exclusively for service and delivery vehicles, details of which will be determined by the Planning Authority.

The servicing requirements for any development should be established early in the preplanning process. Swept-path analysis shall also be submitted demonstrating the safe manoeuvrability of all vehicles servicing the site.

Where no off-street services or on-street storage can be provided, it shall be a requirement of all new developments to submit full details of all new deliveries, including their time, frequency and manner, to the Planning Authority.

Where a development is located in close proximity to a Luas line, consideration to the impact of deliveries and services during the operation of the development on the Luas line shall be determined and associated mitigation measures outlined

5.2 Relevant national guidelines

Spatial Planning and National Roads Guidelines (2012)

The Spatial Planning and National Roads Guidelines, issued in 2012 as Ministerial Guidelines by the then Minister for the Environment, Community and Local Government under section 28 of the Planning and Development Act 2000 (as amended), set out the circumstances under which access to national roads can be provided. Planning authorities are required to have regard to the Guidelines in the performance of their functions. Whilst the Guidelines are focused on national roads, the regional road network also provides essential links between many large settlements and may include busy stretches of road. As such the guidelines may also inform the management of regional roads in particular circumstances.

5.3. Natural Heritage Designations

Grand Canal proposed NHA is c. 0.3km to the south, South Dublin Bay and River Tolka SPA and South Dublin Bay SAC are c.5 km to the east and Liffey Valley proposed NHA is c. 5.5km to the northwest.

6.0 EIA Screening

The proposed change of use does not come within the definition of a project for the purposes of Environmental Impact Assessment (EIA). While the ancillary works referenced in the application would constitute a project, they would not come within a class of development as 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 (see Appendix 1).

7.0 The Appeal

7.1 Grounds of Appeal

The first party appeal includes the following grounds:

- When the café is in operation, noise levels are unlikely to surpass the existing ambient noise in the area, due to the existing presence of the Luas, nearby vehicular traffic, and existing pedestrian and cyclist movements on the St. James' Linear Park Cycleway/Walkway. There will not be any external operating machinery or generators associated with the cafe.
- The proposed development generates an extremely low volume of servicing trips - approximately one vehicle arrival per day which the submitted SOMP demonstrates can be accommodated without obstruction to pedestrians, cyclists, or road users.
- The provision of a takeaway café at the subject site is considered to provide for employment opportunities along the St. James' Linear Park Cycleway/Walkway and the wider area, improving the variety of the offering of services and activities in the area. It is considered that the proposal accords with the aims and objectives of the National Planning Framework, 'Project Ireland 2040'.
- The proposed development represents the more efficient and sustainable use of the existing underutilised site that provides an appropriate response to the use of the rear of the site fronting onto the Linear Walk, whilst also providing for a use that will contribute significantly to the vitality and viability to the area.
- It is contended that the finding that the proposal represents an 'incongruent form of development' is not well founded given the development already exists and is within the limits of permitted development, and the application is for a change of use.

- It is contended that the finding that there will be a loss of neighbour amenity due to overlooking is not well founded given significant overlooking of rear gardens is already an established condition of the site and the proposal offers a more controlled access environment.
- It is contended that the proposal will enhance the streetscape along the Linear Walk, by providing for a high-quality development within existing buildings which relates well to its surrounding context.
- The proposed development is consistent with the sites 'Z1 — Sustainable Residential Neighbourhoods' zoning objective, does not have an adverse impact on adjoining residential amenities and accords with the proper planning and sustainable development of the area. Café/tearoom is an open for consideration use on Z1 zoned lands.
- Multiple precedents for similar developments within residually zoned lands have been identified within the local and wider area.

7.2. Planning Authority Response

The PA requests the Commission uphold their decision. Should permission be granted, conditions requiring the payment of Section 48 and Section 49 (Luas) contributions should be applied.

7.3. Observations

There were 5 no. observations submitted, including one large observation with a commissioned acoustic report

- Residential amenity and site suitability - the proposal as a commercial development that will likely have noise odour and operational impacts resulting from customers queuing is contrary to Development Plan 'Z1' zoning objectives. Furthermore, as a point of clarification, the site location is not a public park as the applicant states but it is to the rear of a residential property

- Noise – Impacts of noise were not assessed adequately. A commissioned report by an acoustics consultancy has found that the applicant's report has flaws in its methodology – namely the incorrect background noise level was used for sampling at the nearest sensitive receptors. The chosen locations did not account for rear garden locations.
- Policy for cafes - the proposal is contrary to the criteria for cafes and restaurants set out in Section 15.14.7.2 whereby there is already an abundance of cafes in the commercial area and there is no need for one at this location. The proposal is contrary to the necessary contribution to the vitality and viability of the area as required for such proposals in Section 15.14.7.2 of the Development Plan. The parade of shops at Rialto Bridge are zoned Z3 ('to provide for and improve neighbourhood facilities) and should not be negatively impacted.
- Waste storage - the proposal is contrary to Development Plan Appendix 7 (Waste Storage Facilities) and Section 15 Development Standards, which require a consideration of waste storage for cafes.
- Section 15.16.2 requires all new development to prepare a Surface Water Management Plan and provide SuDs as per Policy SI22. The proposal does not provide any such details.
- Overdevelopment - The proposal intends to introduce two buildings for commercial use with outdoor seating, coffee machines, vent, commercial bins, staff toilet, ovens and an unknown number of visitors onto the site with cycle and buggy parking. Given the constricted size of the site and layout, it is submitted that there is no room for parking or queuing and the proposal is an overdevelopment of a restricted site
- Cycle and pedestrian safety – The subject site is located directly adjacent to, and at the same level as a shared primary radial cycle route and primary pedestrian route¹ which runs parallel and south of the LUAS. Access to this section of the greenway is from Rialto Bridge c 20m from the subject site and there concerns about obstruction and safety

- Property values - The proposed development will have a negative impact on the value of all of the adjoining properties given the poor quality of the proposal and the profound negative impact it will have on the residential and visual amenity of our clients.
- Servicing - The proposed development indicates servicing the café from loading bays on the South Circular Road, or via the existing house (through its interior, as indicated at preplanning), and there are serious concerns regarding either of these as viable servicing solution to this commercial development. The existing loading bays are too far from the site in a busy commercial location that would certainly lead to service vehicles obstructing roads in and around the Rialto Bridge junction.

7.4 Further responses

The first party appellant responds that the observations submitted to the appeal simply reiterate the objections received during the application. They have set out their response to the main observation items below:

- The principal land-use encouraged in residential neighbourhoods is housing but can include a range of other uses such as shops, education, leisure and community services. The proposed use is 'permitted in principle' under Z1 zoning. Any claim of lack of precedent is incorrect [The first party appellant provides a list of similar developments approved across Dublin city where businesses operate in both residential areas and in public parks. These examples include cafes at Herbert Park, Harold's Cross Park and Palmerston Park Tearooms and businesses operating from the restricted rear laneways of residential properties on Oxford Lane, Dublin 6 and Avenue Road, Dublin 8]
- In terms of scale and physical impacts on neighbours, the proposal does not involve the creation of any new structures. DCC Enforcement recently concluded that the existing rear garden structures (garden room and shed) were permitted development. DCC's reason for refusal includes the assertion of 'incongruous form of development'. However, the physical scale of

development has already been established and the structures do not form part of the proposal.

- In response to observation claims about servicing and access, the detailed Servicing and Operations Management Plan submitted with the application was not deemed to be technically flawed by the DCC Transportation Planning division. Therefore any refusal on the basis of servicing would be unjustified. Attention should be drawn to Walsh's Pharmacy at 1 New Ireland Road as the servicing arrangements are similar.
- One of the observers commissioned a Critical Review of the Noise Impact Assessment. This should be disregarded due to clear inconsistencies when the data was collected and when the report was completed. If the Commission were minded to accept the substance of the third-party acoustic report, there are other technical issues with the report. These include the following: (1) the predicted operational noise levels at No. 3 New Ireland Road are 36 dB LAeq,T at ground floor level and 39 dB LAeq,T at first-floor level. These predicted levels are below the lowest background sound levels reported for the development. (2) the incorrect patron noise calculation of 69 dB(A) at 1m reducing to 56 dB(A) at 20m. This gives a simplified predicted level of approximately 43 dB(A) Leq, before accounting for further receptor-specific factors such as screening, topography, directivity, ground effects and building geometry.

8.0 Assessment

- 8.1. Following a review of the file, assessment of the relevant planning policies and inspection of the site, I am satisfied that the primary concerns in this appeal relate to the (1) principle of the change of use, (2) neighbouring residential amenity and (3) traffic and access

(1) Principle of the Change of Use

- 8.2 Under Z1 zoning, a 'café/tearoom' is an open for consideration, provided the development would be compatible with the overall policies and objectives for the

zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area.

- 8.3 The appeal makes several references to commercial properties operating on residential streets in the wider area and it is certainly not uncommon for local businesses to operate in this way provided the planning authority are satisfied that the objectives of the zoning are being met and residential amenity is protected.
- 8.4 I note the use of the commercial building adjacent 1 New Ireland Road as a pharmacy (491 South Circular Road). This site is also under the same Z1 zoning. However, this is a stand-alone end of terrace commercial property that forms part of the traditional commercial frontage on the South Circular Road with customer access at the front of the building and not to the rear.
- 8.5 The proposed takeaway café use is located in the rear garden of a mid-terrace residential property at number 5 New Ireland Road. The proposed use would back onto the former Grand Canal Bank towpath adjacent to the site is arranged as a linear park with a shared pedestrian / cyclist route running through it from Anne Devlin Bridge / Dolphin Road to South Circular Road. The site is located in a residential Z1 zoning with the zoning objective 'to protect, provide and improve residential amenities'.
- 8.6 In terms of the uses proposed, the applicant is applying for a coffee shop use with a takeaway element for serving hot and cold beverages and also baked goods, made off site. There will be limited outdoor seating (c. 6 seats) within the site boundary. The hours of operation will be 07:30-15:30. Under the open for consideration uses for Z1, a café/tearoom is listed but a 'takeaway' use in neither an open for consideration nor a permissible use within this zoning. Nonetheless this proposal should still be assessed as a restaurant/cafe as takeaway use largely relates to fast-food whereas takeaway coffee is an inherent part of a café business.
- 8.7 Chapter 15 of the Dublin City Development Plan section 15.14.7.2 sets out guidance on restaurants/cafes. When considering applications for such uses, the

planning authority will take into consideration the following: the effect of noise; general disturbance; hours of operation and fumes on the amenities of nearby residents; traffic considerations; waste storage facilities; hours of operation; the number/frequency of restaurants and other retail services in the area; the contribution to the vitality and viability of the area. I conclude that the proposal is therefore permissible in principle subject to the satisfaction of the above.

(2) Neighbouring Residential Amenity

- 8.8 The two existing single storey structures are located to the rear garden of number 5 New Ireland Row, and are currently in use as a garden room and a shed , according to the drawings submitted. The proposal is to use the garden room for a coffee/takeaway unit, and the rear garden shed is to be used for ancillary use and a toilet for staff. The coffee structure is set back c. 4.6 metres from the rear boundary lane. The structure measures c. 2.6 metres in height. The applicant proposes to have outdoor seating tables and chairs for up to 6 people. The structures are set back c.470mm from the property at number 7 New Ireland Road and c. 1.2 metres from number 3 New Ireland Road. This would lead to the potential for significant adverse impact on residential amenity in relation to crowd noise.
- 8.9 The hours of operation are proposed as 07:30 to 15:30. A noise assessment was carried out by the applicant assuming full operational capacity and accounted for noise from customers, the staff toilet extractor fan and the coffee grinder machine and froth machine. The noise impact assessment considered the noise from the development in a worst-case operating scenario at all façade levels of the nearby noise sensitive locations. The noise levels from the coffee shop in operation were assessed using a BS4142 assessment which predicted that there is an unlikely adverse impact at all noise sensitive receptors for the proposed operational period (i.e. daytime period). Additional recommendations were provided in the report to further reduce the potential for noise impact. These included no amplified music and signage should be erected in the coffee shop seating area to remind patrons that they are in a residential area and should be respectful to the company's neighbours.

- 8.10 I am aware of an observer's commissioned report critiquing the applicant's survey. I note both reports were authored by suitably qualified experts but I also note the fundamental conclusion drawn from both reports is that there would be an additional noise impact during daytime hours, although the degree of impact appears to be inconclusive and the appeal's case rests on the ambient noise levels that currently exist in the area. However, I would agree with observations that that the rear gardens on either side at numbers 3 and 7 New Ireland Road would receive the most acute effects of any operational noise and potentially crowd noise at any given time and in my view this would amount to a detrimental impact on residential amenity of those nearest properties.
- 8.11 Most of the appeal observations relate to concern over the general use of a residential garden site for a commercial business. Concerns were raised from residents about noise, antisocial behaviour, security issues, servicing, contrary to zoning objective, inappropriate backland development, overlooking issues, loss of privacy and overdevelopment I note some observations to this appeal refer to the bulk and massing of the 12 sqm and 10 sqm garden structures (2.6 m in height) to be used as the café and staff toilet respectively.
- 8.12 However, these structures combined are considered exempted development under Planning Regulations. I am satisfied that there would be no impact on privacy, outlook or daylight/sunlight from the proposed café and the proposal would not amount to overdevelopment. As the proposal does not involve the cooking of hot food I see no issue with regard to fumes. The issue as I see it is one of noise and general disturbance and the suitability of this use along this particular row of residential properties.
- 8.13 In Section 15.14.7.2 of the Development Plan (Restaurants/Cafes), the first consideration is "the effect of noise, general disturbance, hours of operation and fumes on the amenities of nearby residents".

8.14 I have noted the appeal's assertion of new but low noise levels. However, a coffee shop with a takeaway element and outdoor seating for up to 6 people, would, in my opinion, invariably cause excessive noise and general disturbance relative to a residential neighbourhood to the properties on either side. The proposal would seriously injure their residential amenity and create an undesirable precedent for similar developments in this area. As a result, the proposed development would be contrary to the Z1 zoning objective for the area which is 'to protect, provide and improve residential amenities'.

(3) Access and Servicing

8.15 I note the appeal refers to the SOMP submitted with the application, which describes how the café would generate an extremely low volume of servicing trips (approximately one vehicle arrival per day). The coffee shop and seating area would have its access out onto the shared pedestrian / cyclist route to the rear. Waste and servicing vehicles would have to pull in off the South Circular Road to accommodate this, which would disrupt this active travel and green infrastructure network provided for by the Development Plan. The SOMP states that "no vehicular access will be granted to the proposed development via the walkway for regular servicing activities". However, delivery, servicing and refuse vehicles would have to temporarily park at the entrance to the walkway, up as far as the vehicle bollard. This would be disruptive to all users of this path in addition to pedestrians walking north-south along the South Circular Road. There is no designated commercial drop-off bay at this location.

8.16 A refusal of permission for rear access at No.3 New Ireland Road. (PA Ref. 2930/19 ABP Ref. 304993-19) next door to the subject site is worth noting. Permission was refused for two reasons and of particular relevance is reason no. 2, which stated that *'the proposed creation of a vehicular entrance at the rear of the property would lead to obstruction and conflict with pedestrian and cyclist movements along the public cycle and pedestrian path within the green network in an area subject to the zoning objective Z9 "to preserve, provide and improve recreational amenity and open space and green networks" over which access via a restricted key holder operated barrier to and from the South Circular Road at Rialto*

Bridge, close to the site location would be required. The proposed development would, therefore, endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.'

- 8.17 The appeal does not demonstrate that the proposed development can be adequately serviced from the adjacent public road network without impact on other road users and amenities. I agree with the planning authority's assertion that the proposed development would give rise to haphazard servicing activity and refuse collection thereby causing obstruction to pedestrians/cyclists and other road users both within the adjoining towpath public park and adjacent road network. The commercial activity on a residential street, but especially in a mid-terrace property without sufficient access and servicing provision would be contrary to Policy SMT18 and Appendix 5, Section 2.4 of the Dublin City Development Plan 2022-2028. It is submitted that the use and associated activities would increase would also endanger pedestrian and cycle safety and should be refused.
- 8.18 In terms of any other issues not covered in this assessment, I note the observations refer to the devaluing of property in the area. However, having regard to the assessment and conclusions above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.
- 8.19 Overall, there is insufficient evidence provided in the appeal that the proposal would not result in excessive noise and general disturbance to the properties on either side and in the vicinity and would not seriously injure their residential amenity thereby not satisfying the criteria in Section 15.14.7.2 of the Development Pln. It would create an undesirable precedent for similar developments in this area. Furthermore, the proposal, by way of adding access and servicing arrangements to the rear of the property and also by attracting members of the public to the rear of the property, would also be contrary to Policy SMT18 and Appendix 5 of the Development Plan and would cause an unacceptable traffic safety hazard. The proposed development would be contrary to the Z1 zoning objective for the area which is 'to protect, provide and improve residential amenities', and would be

contrary to the proper planning and sustainable development of the area. It is therefore recommended that planning permission be refused.

9.0 AA Screening

- 9.1. 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 in an established residential area c. 5km to the west of South Dublin Bay and River Tolka SPA and South Dublin Bay SAC.
- 9.2. The proposed development comprises a change of use of the existing single-storey garden room (12 sqm) and ancillary garden shed (10 sqm) within the rear garden of no. 5 New Ireland Road, Dublin 8 to takeaway café use for the sale of hot and cold beverages and baked goods; and all other ancillary works necessary to facilitate the development. No nature conservation concerns were raised in the planning appeal.
- 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 not have any effect on a European Site. The reason for this conclusion is as follows:
- Nature of works
 - Location in an established residential area
 - Lack of connections to nearest European sites
- 9.4. 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 Water Framework Directive

- 10.1. The subject site is located at 5 New Ireland Road Rialto Dublin 8 approximately 250 metres northeast of the Grand Canal main line.
- 10.2 The proposed development comprises a change of use of the existing single-storey garden room (12 sqm) and ancillary garden shed (10 sqm) within the rear garden of no. 5 New Ireland Road, Dublin 8 to takeaway café use for the sale of hot and cold beverages and baked goods; and all other ancillary works necessary to facilitate the development. No water deterioration concerns were raised in the planning appeal.
- 10.3 I have assessed the 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 & 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 and the use proposed
 - Location-distance from nearest water bodies and/or lack of hydrological connections
- 10.4 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.

11.0 Recommendation

- 11.1. I recommend that permission be refused

12.0 Reasons and Considerations

12.1 Notwithstanding that the proposed change of use is open for consideration under the zoning objective Z1, having regard to the objectives of that zoning, the residential character of the area, the proposed change of use and the policies and objectives contained in the Dublin City Development Plan 2022-2028, it is considered that the proposed development would cause substantial harm to the residential amenity of the area due to the significant noise disturbance resulting from the proposal and the close proximity to residential properties. The proposal would therefore be contrary to Section 15.14.7.2 of the Development Plan, the residential zoning objectives of the site and the proper planning and sustainable development of the area.

Having regard to the existing cycle and pedestrian path along the site boundary and the site location adjacent the South Circular Road, the proposal would also cause an unacceptable public safety hazard to pedestrians and cyclists and would fail to ensure safe and adequate servicing of the site. The proposal would therefore be contrary to Policy SMT18 and Appendix 5 Section 2.4 of the Dublin City Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

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

Killian Harrington
Planning Inspector

25 June 2026

Appendix A: Form 1 EIA Pre-Screening

Case Reference	PL-501000-DS-26
Proposed Development Summary	(i) Change of use of the existing single-storey garden room (12 sqm) and ancillary garden shed within the rear garden of no. 5 New Ireland Road, Rialto, Dublin 8 D08 X7FY, to takeaway café use for the sale of hot and cold beverages and baked goods; and (ii) all other ancillary works necessary to facilitate the development
Development Address	Lands to the rear of 5 New Ireland Road, Rialto, Dublin 8
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)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, No further action required.
2. Is the proposed development of a CLASS specified in <u>Part 1</u>, 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	

1. Is the proposed development of a CLASS specified in <u>Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)</u> 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)	
2. 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: 25 June 2026