



An
Coimisiún
Pleanála

Inspector's Report PL-501255-CC-26

Development	Change of use of the external terrace at third floor from general external amenity space to ancillary seating with overhead extendable canopy and side, timber screen
Location	Dunnes Stores, 105-107 Saint Patrick's Street, Cork, T12P718
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2644537
Applicant(s)	Better Value Unlimited Company
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Sergio De Carvalho Moreira Marques
Observer(s)	None
Date of Site Inspection	17 th July 2026
Inspector	Michele Beirne

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1.0 Site Location and Description

- 1.1.1. The site is occupied by Dunnes Stores in Cork City Centre. The site comprises of a block located between St. Patrick's Street, Bowling Green Street, William Street and Drawbridge Street. There is an operating restaurant known as 'Dunnes Stores Café' at third floor level and the proposed development relates to an existing third floor external terrace adjacent to the restaurant. The third floor terrace is adjacent to Drawbridge Street which leads onto Emmet Place. The site has a stated area of 0.25 hectares.
- 1.1.2. This is a city centre site and the surrounding area is characterised by a mix of retail, office, residential, leisure and cultural uses. The Crawford Art Gallery (currently under redevelopment) and Emmet Place are both on the Record of Protected Structures and are in proximity to the site.

2.0 Proposed Development

- 2.1. The proposed development is described as follows:
- Change of use of external terrace at the third floor from general external amenity space to ancillary seating associated with an operating restaurant,
 - Overhead extendable canopy and side timber screen on west side within perimeter glazed balustrade,
 - Associated works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Cork City Council (CCC) issued notification of a decision to grant permission on the 15th April 2026 subject to 6 conditions. Conditions 2, 3, 4, 5 and 6 are of note:
- Condition 2: The terrace shall be ancillary to the adjoining café/restaurant and used during the restaurant opening hours only. No alternative use or opening time will be allowed without written agreement.

- Condition 3: No additional signage shall be erected on the terrace, awning or screening without prior grant of permission.
- Condition 4: Detailed construction and operational noise controls measures are conditioned.
- Condition 5 : Operational noise is restricted and the developer is to engage a noise specialist to ensure compliance with the permission. No amplification equipment is to be used.
- Condition 6: Construction noise levels and working hours are restricted.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The SEP report can be summarised as follows:

- Agree with recommendation to grant with conditions.

The planners report can be summarised as follows:

- The site is zoned objective Z0.05 'City Centre' and the proposal is permitted in principle.
- The site has undergone significant regeneration and is a key commercial premises in the city centre. There is no objection in principle to the proposal.
- The location is in a Zone of Archaeological Interest and its relationship to buildings listed on the National Inventory of Architectural Heritage is noted.
- The policy framework in particular Section 11.185 relating to cafes and restaurants is identified.
- The planning and enforcement history is provided. A Section 5 declaration confirmed the restaurant/café use is exempted development.
- Third party submissions are noted and considered in the assessment.
- The distance and height difference between the terrace and lower properties to the north mitigate overlooking concerns.

- There are properties to the west in the Opera Lane development with a private balcony at a similar level to the terrace. Screening along the western terrace provides sufficient shielding to the apartments against overlooking.
- Given the limited opening hours, the ancillary nature of the terrace and relatively small number of potential uses, there would be minimal negative impacts on surrounding residential amenities.
- There are no visual impact concerns given the terraces location and set back.
- The materials for the screen and awning are acceptable
- No formal report was provided from the Environmental Management Section but comments were received from the section and no objection was made subject to conditions.
- The proposal would not have any undue negative impact on adjacent properties or the character of the surrounding area and it is acceptable subject to conditions.

3.2.2. Other Technical Reports

Contributions report: Grant with no contribution.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

- #### 3.4.1.
- Three third party submission was made to the Planning Authority. Observations raised largely reflect the grounds of appeal set out in Section 7.

4.0 Planning History

4.1.1. Site

Parent application

- PA. Ref: 05/30139: Permission granted in 2006 for the redevelopment of the site. This involved the demolition of existing buildings except for retained

facades and part of structures to 103-105 St. Patrick's St., construction of a new retail/commercial building of six storeys over a basement comprising retail (convenience) at basement level, an off-licence, retail (comparison) over five levels, a restaurant, ancillary accommodation and signage.

Other applications on site

- PA. Ref: 25/43603: Permission granted in 2025 for change of shopfront on St. Patricks St. including retractable awnings, lighting and timber planters.
- PA. Ref: 08/33461: Permission granted in 2009 for amendments to PA. Ref: 05/30139 consisting of a new glazed conservatory extension to the third floor, revised building line to William St. at third and fourth floor levels which included an enclosed stairs and a lift machine room, canopies to ground floor elevations.
- PA. Ref: 08/33460: Permission granted in 2009 for an amendment to PA. Ref: 05/30139 consisting of a set back at ground floor at Drawbridge St. to increase pavement width for a taxi rank.

5.0 Policy Context

5.1 Development Plan

Cork City Development Plan 2022-2028:

Zoning:

- 5.1.1 The area is zoned “ZO 5 City Centre”, the zoning objective is to ‘consolidate and facilitate the development of the central area and to promote its role as a dynamic mixed used centre for community, economic, civic, cultural and residential growth’.

Summary of key policy:

5.1.1. Chapter 7: Economy and Employment

- Objective 7.28 City Centre
- Objective 7.37 Vibrant and Mixed-use Centres

5.1.2 Chapter 10: Strategic Consolidation and Regeneration Areas Core:

- Objective 10.1 Strategic City Centre Objectives

5.1.3 Chapter 11 Placemaking and Managing Development in particular:

- Section 11.185 Cafes/Restaurants

5.4 Natural Heritage Designations

5.1.2. The closest European sites are Cork Harbour SPA (004030) located 3km southeast of the site and Great Island Channel SAC located 9km east of the site (001058). Lough Lee pNHA (000094) is located 1.5km southwest of the site, Lee Valley pNHA (000094) is located 3.5km west of the site and Douglas River Estuary pNHA (001046) is located 3km southeast of the site.

6.0 EIA Screening

6.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. A third party appeal was lodged by a resident of apartments to the west of the site regarding the decision to grant permission. It is summarised as follows:

- The appellant provides planning context that includes enforcement action on site and the Section 5 Declaration issued on the internal café/restaurant.
- The proposal would cause an intensification of use on the high end of the planning scale and result in an adverse impact on residential amenity.
- Impacts include noise, overlooking and loss of privacy, a sense of being watched, loss of amenity of private outdoor space and visual intrusion.
- It is noted that the applicants photo is limited, it depicts a single viewpoint and shows the screen extending the entire western face of the terrace but drawings

show the screen ending 500mm short of the southern end of the western facade.

- The adequacy of the screen as a control is disputed. There is no control on numbers or configuration, it does not extend the full length of the western façade, protect residents above the third floor or prevent awareness of commercial activity.
- There are deficiencies in the Noise Impact Assessment which undermine the reliability of the report. They include:
 - Residents' outdoor amenity spaces are not assessed. It does not model or assess balconies, terraces, glazed curtain walls or patio doors.
 - Source positions and distances do not reconcile with the applicants dimensioned geometry.
 - Source noise is derived from small indoor groups and does not reflect the acoustic reality of outdoor dining.
 - The model relates to average continuous noise levels(LAeq) and does not assess peak noise events (LAm_{ax}). Reliance on LAeq does not capture the events that are most likely to cause disturbance.
 - The assessment assumes 20 persons on the terrace and not the physical capacity of the terrace.
- The planner's report does not engage with the Noise Impact Assessment and separation distances are a fraction of the Development Plan standard. The Plan applies a separation distance of 22 metres and there is no reasoned justification for departing from that separation. The planners report references the receiving environment as a private balcony area of one apartment when it is a 61 unit residential development.
- There is a failure to demonstrate compliance with Section 11.182 Mixed used development and noise and Section 11.185 Cafes/restaurant of the Plan. The application does not address the odour impact of the restaurant operation (of which the terrace is an ancillary part) on Opera Lane residents and no extraction fan details are in the application.

- The decision is inconsistent with the Plan's strategic objective of protecting and growing the City Centre's residential population.
- The zoning contemplates co-existence of residential and commercial uses. Transitional land use zoning arrangements in the Plan provide special consideration for the protection of existing residential amenities.
- The proposed canopy and timber screen fill a recessed zone where the elevation in the original design was intended to be visually quiet. Photographs are provided from six vantage points to illustrate visual impact.
- The site is in St Patrick's Street Architectural Conservation Area, the building and adjoining buildings are on the NIAH, the area is of civic and cultural importance and this has not been assessed in a substantive way.
- The applicants' drawings show a fourth floor terrace and scope for further expansion. The decision would set an adverse precedent and cumulative commercial expansion.
- Works were substantially in place before the application was lodged and the application should have been assessed as retention.
- Section 42 of the Irish Human Rights and Equality Commission Act 2014 requires differential impact to be considered. The apartments are occupied by residents with disabilities, reduced mobility, young children and elderly persons. The home environment will be degraded.
- Conditions cannot mitigate impacts. There is no cap on occupancy, the hours are self-stated hours, no temporal restriction on weekend mornings or evenings, seasonal or weather related restrictions and no condition to control the retractable canopy. It is queried whether conditions are sufficient to address noise concerns, given deficiencies identified in the noise assessment.
- Decisions and case law cited to support the appeal have been reviewed and include: ABP Ref: PL 29S 245491 Vintage Cocktail Pub, Dublin relating to a roof terrace; ABP Ref: 312069-21 relating to a change of use for outdoor dining and awning at a public house at Skerries; ABP Ref: 312392-21 at Pembroke Dublin relating to cumulative expansion and where a history of non-compliance is demonstrated; ACP Ref: 320363-24, PA Ref: 24/43928 relating

to retention of an awning at the Shelbourne Bar, Cork; ACP Ref: 29S.RL.2667 at Hanover Quay Dublin relating to extraction equipment and exempted development; Meath County Council v Murray (2017) IESC 25 and Monaghan County Council v Brogan (1987) IR 333.

- The following appendices are submitted to support the appeal and have been reviewed: A. Acknowledgement receipt of observation. B. Appellants observation of 28/02/26, C. Elevations from application drawings, D. Noise Impact Assessment, E: Photomontage, F. AIE 13-25 Release Pack, G. Dated photographic record of works, H. R989/5 Application – Section 5 Declaration, I. Cited extracts from the Cork City Development Plan 2022-2028, J. Direct link references for cited ABP decisions, K. Dimensioned distances drawing, L. BCM Commencement notice CN0129233CY, M. Photographs from public vantage points.
- The proposal is contrary to proper planning and sustainable development and it is requested this it is refused.

7.2. Applicant Response

The applicant's response to the appeal is as follows:

- The apartments were built at the same time as a significant redevelopment of the site. Residents would have been aware of the commercial nature of the development.
- The proposed development represents a modest and well controlled change of use to an existing city-centre terrace and is confined to ancillary use.
- The applicant does not agree that intensification of use is on the high end of the planning scale.
- This is a city centre location where noise and other disturbances to varying degrees are inevitable.
- No one living in a city centre location can expect to be protected from impacts to the same degree as an area zoned for residential purposes.
- The applicant does not agree with the appellant's analysis on impact.

- The proposed canopy and screen address concerns. Impacts are mitigated and, in some respects, removed.
- The limited hours of operation mitigate nuisance from noise.
- The Noise Impact Assessment confirms noise emissions comply by a comfortable margin with noise conditions set out in the parent permission.
- The applicants response is supported by comments from their noise consultant CLV Consulting stating the applicants comments are incorrect and is summarised as follows:
 - The proposed development features an imperforate timber screen to ensure the provision of acoustic screening to adjacent residential properties.
 - Noise emissions from the proposed outdoor seating was predicted as 42 dB(A) below the recommended 50-55 dB(A) criteria range and below the measured ambient levels.
 - Source measurements were taken in Dunnes Stores café at a busy time. The noise source measurements assume a worst case scenario of 90 patrons and are over four times the proposed outdoor occupancy. The outdoor seating area is for 20 persons and does not include a serving area or kitchen. Noise levels for indoor space are subject to significantly higher Lombard Effect due to generated noise being contained and reflected.
 - The 15m distance is 14.5m, other seating areas are 1.5m further than stated. Differences are negligible and do not affect predicted results.
 - Regarding peak noise assessment, there is no specific LAFmax criteria referenced in BS8233. The LAFmax values from the ambient environmental noise survey, which are representative of the noise sensitive receptors outdoors space, range from 79-96dB. A review of measurements from the busy café confirm similar values, this will be lower at the nearest noise sensitive receptors external space due to screening and attenuation.
 - The assessment is based on 20 persons and will be 42dB (A) at the nearest noise sensitive location and compliant. It is noted that 40 persons impact would increase to 45dB and is compliant.

- Appropriate noise controls restrict noise. Limits are appropriate in a city-centre location and condition 5 also prevents playing of music on the terrace.
- The separation distances in guidelines do not apply to balconies. The distance between the balconies was authorised by the granting of permission.
- The '500mm gap' between the end of the canopy and the balustrade at the west side of the terrace is noted. The applicant suggests a further opaque screen or that it could be infilled with planting of adequate size by condition.
- Staff could currently stand at the west end of the balcony and look directly onto the apartment. There is no obligation to erect a screen at present. The screen changes the relevance of separation between the two properties.
- Fire Certificate details are provided and include the potential future of the terrace for restaurant seating for 20 people.
- The proposed external seating area does not involve any cooking activity. Food will be served for consumption on the terrace only and only up to 5pm.
- No permission is sought for extraction equipment. The concern regarding odour and fumes falls outside the scope of the proposal.
- The offer will primarily be used by customers and will not generate additional deliveries.
- Short term waste collection within the balcony area will be collected regularly by staff and removed.
- No signage is proposed on the canopy or elsewhere.
- The use of the terrace will help to protect and strengthen the vitality of the city centre by adding a small scale external seating offer.
- The design and layout of both buildings are long established and are not matters for reconsideration under this application.
- Transitional land use zoning provisions do not apply as they are intended to address interface areas between lands with differing zoning objectives.
- The appellant incorrectly states the site is within the St. Patrick St. ACA. The only element of historic interest is the facade addressing St Patrick Street.

- The red colour on the canopy and panel in the appellants images exaggerate the proposals prominence and no weight should be given to these images.
- The applicant agrees with the planning authority that there are no visual impact concerns. The canopy structures and screen will be in muted colours, where visible it will be incidental within the wider urban environment.
- The development would not create an unacceptable precedent. Canopies are common in city centres. Growth and improvement are critical to fulfilling objectives for the area as the economic hub of the city and the region.
- No part of the proposed development has been implemented so retention permission is not relevant.
- It is respectfully submitted that the proposed development does not give rise to any disproportionate or unequal impact on adjoining residential occupiers. The terrace forms part of an established mixed use urban environment where interaction between commercial and residential uses is a characteristic. Screening prevents direct overlooking, intervisibility and mutual overlooking and benefits apartments. The design demonstrates active consideration of residential amenity and has targeted mitigation measures to avoid effects.
- The appellant cites the following examples that are not comparable and involve materially different circumstances: ABP PL29S.245491 related to a rooftop late night cocktail bar. ABP 312291-21 was refused on the grounds of conflict with the residential zoning and impacts on protected structures. ABP 320363-24 related to a substantial awning at street level and ABP-312069-21 related to a public house in Skerries. The appellant incorrectly states that the Skerries application was refused.
- It is respectfully submitted that the Commission uphold the decision.

7.3. **Planning Authority Response**

None.

8.0 **Assessment**

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, having inspected the site and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal are as follows:

- **Principle of development**
- **Residential amenity impacts on apartments to the west**
- **Operational impacts on apartments to the west**
- **Build heritage impacts**
- **Other matters**

8.1. **Principle of development**

8.1.1. The proposed development is located on an existing terrace at the third floor level of Dunnes Stores. The site has undergone significant regeneration and contains a mix of retail and ancillary uses. The proposal includes change of use of an external terrace to ancillary seating associated with an operating restaurant. It also involves an overhead extendable canopy and side timber screen on west side within perimeter glazed balustrade. The appellant states the decision is inconsistent with the Plan's strategic objective of protecting and growing the City Centre's residential population. They refer to transitional land use zoning provisions in the Plan where special consideration must be given to scale, density and use in order to protect existing residential amenity. The applicant points out the apartments were built at the same time as a significant redevelopment of this commercial site and residents would have been aware of the commercial nature of adjoining development.

8.1.2. I note the site is in an area zoned 'ZO 5 City Centre' and the zoning objective is to 'consolidate and facilitate the development of the central area and to promote its role as a dynamic mixed used centre for community, economic, civic, cultural and residential growth'. As part of this zoning objective, ZO 5.1

includes it is essential that the city centre continues to develop its role as the key economic driver of the region and withstand threats that include the changing nature of retailing. ZO 5.2 states that primary uses in this zone include retail and uses that contribute to the vibrancy and diversity of the city centre. I also note that Section 12.10 relating to Development Close to Zoning Boundaries sets out provisions to avoid abrupt transitions in scale, densities and use between land use zones. I do not consider this section to apply in this case as the site and adjoining development are within the same zoning category and these provisions are intended to address lands with differing zoning objectives.

- 8.1.3. Having regard to the zoning objective and that the restaurant is established and the intended use is ancillary to an existing operation, I consider that the proposed change of use of an external terrace from general external amenity space to ancillary seating associated with an operating restaurant with an overhead extendable canopy and screen to be permitted in principle, subject to compliance with development management standards. These are considered below in the assessment.

8.2. Residential amenity impacts on apartments to the west

- 8.2.1. I observed on my site inspection that there is an apartment complex known as Opera Lane Apartments above retail to the west of the site. There are a mix of balconies and terraces at different levels and the closest apartments terrace fronts onto Emmet Place. The proposal involves a side screen and awning structure that is a minimum c2.7m in height and rises to c4m in height at canopy level. A balustrade panel c1.5m in height adjoins the existing terrace wall that is c1.1m in height. There is gap of c.5m (500mm) between the end of the screen and awning structure and the balustrade at the west side of the terrace. The terrace has a floor area of 79sqm. Drawings indicate that the proposal incorporates seating for 20 persons, planting at various locations, bin storage and no change to the location or width of the access to the terrace from the restaurant.

- 8.2.2. I note the application included an image to demonstrate the proposal in relation to adjoining apartments and the appellant states it does not reflect the dimensioned drawings as it did not show the 500mm gap. The applicant provided another image to demonstrate the screen in relation to the apartments as part of their response to the appeal. I have reviewed this image against the drawings and consider it to adequately reflect the design as the screen does not extend the entire western face of the terrace. Nonetheless, I have carried out my assessment on the basis of the drawings and description submitted.
- 8.2.3. The appellant states the proposal would cause a material intensification of use at the higher end of the planning scale and is concerned about impacts that include noise, overlooking and loss of privacy, a sense of being watched, loss of amenity of private outdoor space and visual intrusion. The adequacy of the screen as a control is disputed as the screen ends 500mm short of the southern end of the western façade, does not protect residents above the third floor or prevent awareness of commercial activity. They state the planning authority assessment provided no reasoned justification for departing from a standard separation distance of 22 metres in the Plan, nor did it engage with the Noise Impact Assessment. The appellant also states the proposal fills a recessed zone that was intended to be visually quiet. I note the appellant provided photos illustrating the view of the elevation from six vantage points and the applicant states they exaggerate the proposals prominence.
- 8.2.4. The applicant also disagrees it would cause an intensification of use on a high scale and states the proposal represents a modest and well controlled change of use to an existing city centre terrace, confined to ancillary use. Opening hours are tied to the restaurant, the proposed canopy and screen address concerns and the proposal has been designed in consideration of residential neighbours. They note no one living in a city centre location can expect to be protected from impacts to the same degree as an area zoned for residential purposes and staff can currently look directly onto apartments. They propose an additional screen or infill planting of an appropriate scale to address the gap.
- 8.2.5. I note the drawings detail that the terrace cladding is proposed as forma-havana flush cladding and that the awning system will be in muted urban colours (ref 654 Saint Clair). I consider that the proposed external finishes

blend in with the finishes on the premises. I observed that the terrace is evident from adjacent apartments and from various locations including Emmet Place, the edge of Paul Street Architectural Conservation Area and Lavitts Quay. Having regard to the setback and scale of the terrace in relation to the full elevation and to the proposed design and finishes, I also do not consider that the awning structure and screen would appear overbearing or give rise to unacceptable visual impacts.

8.2.6. I have reviewed the drawings and appeal documentation which show the distance between the terrace and the closest apartment terrace at c10.5m and the distance between the terrace and the closest apartment building at c.14.5m. I note the 22m separation distance referred to by the appellant relates to separation distance between habitable rooms, this has since been reduced to 16m in the 2024 Compact Settlement Guidelines. I also note the zoning objective provides for a mix of uses and distances were established in the redevelopment of both sites.

8.2.7. Having regard to the mixed use nature of the city centre area, the ancillary nature of the proposal and the separation distances established in the redevelopment of both sites, it is my view that while the separation distance is relevant, it is not a significant factor where measures can mitigate potential impacts. It is also my view that the awning and screen height and position substantially restrict direct sight lines to apartments and therefore mitigate potential overlooking, loss of privacy and visual intrusion.

8.2.8. Given the level of screening provided by the awning and screen height and the location of the 500mm gap, I also consider that this gap would not result in undue loss of privacy or overlooking. I note that the drawings include planters in this corner but do not provide a planting specification outlining the type and height of planting and the applicant has suggested that the gap could be infilled by a further opaque screen or planting of adequate size by condition. I also note that the closest apartment fronting Emmet Place has planting on the terrace which, when viewed from below, adds visually to the streetscape. Having regard to the surrounding urban environment and that no planting specification is provided outlining type and size, I consider it reasonable to include a condition for planting to be of adequate size and that the planting

specification be provided, should the Commission grant permission. I am therefore satisfied that the screening, subject to condition, is sufficient and that the proposal would not result in any undue loss of privacy, overlooking or visual impacts.

8.3. Operational impacts on apartments to the west

8.3.1. The appellant raised concern that the application has not provided information required under Section 11.182 Mixed use development and noise and Section 11.185 Cafes/ restaurants, in particular criterion 3 relating to noise fumes and general disturbance and states the proposal would set an adverse precedent. The applicant disagrees and states growth and improvement are critical to fulfilling objectives for the city centre area as the economic hub of the city and region.

8.3.2. Section 11.185 relates specifically to Cafes / Restaurants and states considerations for café/restaurant related applications include *'The need to retain, protect and strengthen the vitality and multi-use function of designated centres; The number/frequency of cafes / restaurants in the area; The effect of noise, fumes, hours of operation, and general disturbance on nearby amenities and residents. Full details of any external extractor fans/vents and hours of operation of the development shall form part of a planning application; Traffic implications including adequate and safe delivery areas; Waste storage facilities; Any proposed signage/advertising/lighting shall be suitable and unobtrusive.'*

Vitality, multi-use of city centre and number of café/restaurants

8.3.3. I observed that the terrace is attached to an operating restaurant, that there is also a café on the ground floor and the basement supermarket offers hot and cold food for consumption on and off the premises. I also observed a high number of cafes and restaurants in the city centre area. I note that Section 11.185 recognises the positive contribution cafes and restaurants can make to the vitality of the city and measures in the Development Plan support sustaining vibrant city centres and enhancing the role of the city centre as the primary retail centre (Objectives 7.28 City Centre, Objective 7.37 Vibrant and Mixed-

Use Centres, Objective 10.1 Strategic City Centre Objectives). Having regard to the above, I consider that the use of the terrace for ancillary seating associated with an operating third floor level restaurant would make a positive contribution, is typical for a mixed use city centre area and accord with Section 11.185 Cafes/ Restaurants and Development Plan objectives that promote a vibrant city centre.

Noise and odour

- 8.3.4. I observed on my site visit that the proposal is in a busy area with a range of retail, office, residential, leisure and cultural uses. I heard noise from the streets below at the terrace relating to traffic and city centre activities. I note that the parent permission included conditions that noise from activities associated with the development are restricted to not give rise to noise levels off site exceeding 55 dB(A) Leq, 15 minutes during the hours of 0800-2200 and 45 dB(A), Leq, 15 minutes during the hours of 2200-0800 and that there shall be no audible tonal or impulsive noise. It also included that any music shall be controlled so as to be inaudible within the nearest noise sensitive receptor (PA. Ref: 05/30139).
- 8.3.5. The application was supported by a Noise Impact Assessment by noise consultants CLV Consulting and Section 6 of this report provides an assessment on the expected degree of noise emissions the space will have on the nearest noise sensitive receptor at Opera Lane Apartments. The report concludes that the space will not be subjectively audible at noise sensitive receptors, no adverse noise impact is to be imparted and no mitigation measures are required. I note the assessment has followed BS8233 Guidance on Sound and Noise Reduction for Buildings, which sets out recommended noise limits for indoor ambient noise levels in residential buildings. It has derived external limits by factoring in the degree of noise reduction afforded by an open window (defined in the standards) and applied a daytime criteria of 50dB LAeq,16hr. The appellant raised concern about deficiencies in the Noise Impact Assessment and state this undermines the reliability of the report and noise related conditions. These relate to the residents' outdoor amenity assessed, source positions, distances, source noise, peak noise assessment and that the assessment assumes 20 persons on the terrace below its capacity. I note that the applicant in their response highlighted this is a city centre

location where noise and other disturbances to varying degrees are inevitable. They state limited hours of operation and appropriate noise controls mitigate noise nuisance. They also provided a response from their noise consultant to the concerns raised by the appellant. I have reviewed the assessment and response with the issues raised by the appellant and my opinion is as follows:

- 8.3.6. The appellant raised concern that outdoor amenity spaces are not adequately assessed. Considering the proposal is for ancillary use of an outdoor terrace, I consider outdoor amenity space of the apartments of the nearest apartment to be most comparable and most likely affected. I have reviewed the assessment and am satisfied they address the nearest noise sensitive receptor to provide a reasonable measure for assessing potential noise impact.
- 8.3.7. Concern was raised about distances and the applicant stated distances were checked and found that one distance is 14.5m rather than 15m and seating areas are 1.5m further than stated in the noise assessment. I consider that differences are minor and would not significantly impact findings. I also consider that the screen and awning, similar to mitigating overlooking and visual intrusion, would mitigate potential impacts. While the noise assessment conclusions state no mitigation measures are required, I note the noise consultants response to concerns states the proposed development features an imperforate timber screen to ensure the provision of acoustic screening to adjacent residential properties.
- 8.3.8. The noise assessment indicates noise emissions from the proposed outdoor seating are predicted as 42 dB(A) below the recommended 50 dB(A) criteria range and below the measured ambient levels. The appellant raised concern that source noise was taken from indoor groups, does not reflect the acoustic reality of outdoor dining and does not assess peak noise events. I note that the applicants response includes that noise source measurements assume a worst case scenario of 90 patrons over four times the proposed outdoor occupancy. Noise levels for indoor space are subject to significantly higher Lombard Effect due to generated noise being contained and reflected. I note they also state there is no specific LAFmax criteria referenced in BS8233. The LAFmax values from the ambient environmental noise survey, which are representative of the noise sensitive receptors outdoors space, range from 79-96dB. A review of

measurements from the busy café confirm similar values, this will be lower at the nearest noise sensitive receptors external space due to screening and attenuation. The appellant stated the assessment assumes 20 persons on the terrace and not the physical capacity of the terrace. I note the applicant provided details on a fire certificate that include use of the terrace for 20 persons and the noise consultants state the assessment is based on 20 persons but that 40 persons impact would increase to 45dB. I consider this acceptable as it demonstrates that a 40 person occupancy would still comply with the daytime criteria in the assessment and would not give rise to noise levels off site exceeding 55 dB(A) Leq permitted under the parent permission (PA. Ref: 05/30139). I note the appellant has not submitted expert evidence which would specifically contradict information in the applicants noise impact assessment.

- 8.3.9. Having regard to the methodology followed and that the assessment is weighted, I am satisfied that the applicant has provided an adequate methodology to test compliance with the parent permission and the assessment complies with noise levels permitted under the parent permission PA. Ref: 05/30139. I note the planners report states no formal report was provided from the Environmental Management Section but comments were received from the section and no objection was made subject to conditions. I also note the decision to grant permission included a condition that the terrace shall be ancillary to the adjoining café and controlling the use and opening hours (Condition 2), conditions on construction and operational noise control measures and that no amplification equipment shall be used for live or recorded music. (Conditions 4, 5 and 6). I consider conditions that limit noise levels, the use and hours of operation and do not allow amplified music address concerns and would be consistent with the requirements of the parent permission. I recommend they are included in the interests of residential amenity, should the Commission be minded to grant permission. I also recommend a condition controlling the hours of construction to safeguard residential amenity.
- 8.3.10. I note the appellants refer to examples to support their appeal. I have reviewed these examples and note some related to public houses and a roof top bar, I consider these circumstances different to ancillary seating for a restaurant with

restricted hours. The canopy example cited is larger in scale and has different site characteristics. I do not consider examples to be comparable with the scale or nature of this proposal. It is also my view that all cases are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.

- 8.3.11. Having regard to the scale and nature of the proposal, its location, that operation hours are restricted and not after 5pm and that the noise assessment indicates any noise generated is below the condition requirements in the parent condition, I am satisfied that any potential noise associated with the ancillary use of the terrace would not unduly impact residential amenity. I note the appellant considered conditions inadequate and states they provide no cap on numbers. The application and fire certificate application drawings show seating for 20 persons. I consider this and above the mentioned conditions address concerns. I also consider it reasonable to include conditions to ensure proposals accord with development management standards and to ensure the applicant is clear on what is granted permission.
- 8.3.12. In relation to odour, the appellant refers to Section 11.182 and 11.185 of the Plan and states the application does not address the odour impact of the restaurant operation (of which the terrace is an ancillary part) and no extraction fan details are in the application. I note the applicant states the opening hours of the terrace are tied to the restaurant opening hours cafes: 8:30am to 5pm Monday to Saturday and 10am to 5pm on Sundays. There will be no cooking on the terrace and no permission is sought for extraction equipment.
- 8.3.13. I observed on site that opening hours are restricted. I note examples cited by the appellant, the planning history associated with the site and that a Section 5 Declaration states the 'fitout of part of the third floor of the Dunnes Stores department store as a restaurant (café) for the consumption of food on and off the premises' is development and is exempt development' (PA Ref: R989/25). The drawings and description relate to the outdoor terrace only and I am satisfied that concerns regarding odour and fumes relating to extraction equipment have no bearing on the proposal before me. It is also my view that any unauthorised development is a matter for the Planning Authority to address through the enforcement process and outside the remit of the Commission.

Traffic

8.3.14. I observed on my site inspection that patrons in the restaurant had shopping bags from Dunnes Stores and note there are a range of parking and public transport options in the city centre. I note the applicant states the offer will primarily be used by customers and will not generate additional deliveries. Considering the nature of its proposal, the likelihood that patrons will be customers of Dunnes Stores and transport options available in the vicinity, I do not consider that the proposal will create adverse traffic related impacts.

Waste

8.3.15. The drawings indicate designated space for bins on the terrace and I am satisfied there are adequate waste storage facilities. I note the applicant states that short term waste collection will be collected regularly by staff and removed.

Signage

8.3.16. The drawings indicate no signage proposals on the awning structure and lighting is unobtrusive. I note a condition was included in the decision to grant permission stating no signage shall be erected on the terrace, awning or screening without prior grant of permission. I consider this condition appropriate, in the interests of visual amenity and to avoid visual clutter.

8.4. Built heritage impacts

8.4.1. The appellant states the site is in Saint Patrick's Street Architectural Conservation Area (ACA) and built heritage has not been assessed in a substantive way. I note the appellant states it is not in an ACA and the historic element associated with the site is the facade addressing St Patrick Street.

8.4.2. I have reviewed ACAs in the city centre, the closest ACAs are Paul Street ACA c89m from the site and Oliver Plunkett Street ACA c118m from the site¹. I am satisfied that the site is not within an ACA. The historic element of the site is on the opposite end of the site fronting onto St Patrick Street and I consider that the proposal has no bearing on this area. I note that Emmet Place (c34m from

¹ Volume 3, Cork City Development Plan 2022-2028

the site) and the Crawford Art Gallery (c48m from the site) are both on the Record of Protected Structures. As stated in Section 8.2.5, I have viewed the existing terrace from various streets and observed that the terrace is evident from these areas. I also observed that significant regeneration has taken place in the area and there are a range of architectural styles and terraces in the area.

- 8.4.3. Having regard to the set back of the terrace at third floor level, its distance from protected structures, the scale, design and muted external finishes of the proposal and the mix of architectural styles in the area, I do not consider that the proposal will detract or result in negative impacts on the setting of protected structures or the character of the area.

8.5. Other matters

- 8.5.1. *Technical considerations:* The appellant states works were substantially in place before the application was lodged and the application should have been assessed as retention. I observed on my site inspection that access to the terrace was blocked by planting and that tables and chairs, the canopy or screen were not in place. I consider the description of the proposal acceptable and I note the matter was considered acceptable by the planning authority.
- 8.5.2. *Impact on human rights:* I note the concerns raised in the grounds of appeal and the applicant's response. However, having regard to the assessment and conclusions set out above, I am satisfied that the proposal would not have a disproportionate impact on human rights of residents generally or residents with disabilities, reduced mobility, young children or elderly persons.
- 8.5.3. *Further expansion:* The applicant states that the drawings show a fourth floor terrace and scope for further expansion and the decision would set an adverse precedent and cumulative commercial expansion. I note the drawings or description do not have proposals for the fourth floor terrace and I do not consider that granting permission commits to granting any future permissions, any application would be assessed and determined on its own merits.

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.
- 9.2 The subject site is located 3km northwest of Cork Harbour SPA (004030) and 9km west of Great Island Channel SAC (001058).
- 9.3 No nature conservation concerns were raised in the planning appeal.
- 9.4 Having considered the nature, scale and location of the proposed development, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- The nature of the development proposal.
 - The location of the development in a serviced area.
 - The distance to the Natura 2000 network and the absence of pathways to any European Site.
- 9.5 I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 **Water Framework Directive**

- 10.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive.
- 10.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.

- 10.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.
- 10.4. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

11.0 Recommendation

- 11.1. I recommend that planning permission be granted, subject to conditions, for the reasons and considerations as set out below.

12.0 Reasons and Considerations

- 12.1. Having regard to the location and existing development on site, the nature and scale of the proposed development, the context of the surrounding area and the provisions of the Cork City Development Plan 2022-2028, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure residential or visual amenities and would not detract from the character of the area. The proposed development is therefore in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1.	The development shall be carried out in accordance with the plans and particulars submitted with the planning application except as may be otherwise required by the following conditions. REASON: To clarify the plans and particulars for which permission is granted.
2.	The use of the external terrace shall be ancillary to the adjoining café/restaurant at third floor level only. It shall only be used during the restaurant opening hours, which have been stated as Monday-Saturday: 8.30am-5.00pm and Sunday: 10.00am-5.00pm. No alternative use or

	extended opening hours will be allowed without the further written agreement of the planning authority. REASON: To protect the residential amenities of property in the vicinity.
3.	No signage, signs, symbols, name plates or advertisements (including that which is exempted development under the Planning and Development Regulations, 2001 (as amended)), shall be erected or displayed on the terrace, awning or screening unless authorised by a further grant of planning permission. REASON: In the interest of visual amenity.
4.	During the operational phase of the proposed development the noise level shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 2300, and (b) 45 dB(A) 15min and 60 dB LAfmax, 15min at all other times , as measured at the nearest noise sensitive location. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. REASON: To protect the residential amenities of property in the vicinity.
5.	No amplified music or other specific entertainment noise emissions shall be permitted. REASON: To protect the residential amenities of property in the vicinity.
6.	Planting of an appropriate scale shall be provided between the screen and perimeter glazed balustrade at the west end of the terrace. Planting specifications including maintenance of planting shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. REASON: To protect the residential amenities of property in the vicinity and in the interest of visual amenity.
7.	Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation

	from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. REASON: In order to safeguard the amenities of property in the vicinity
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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.”

Michele Beirne

Planning Inspector

12th August 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501255-CC-26
Proposed Development Summary	Change of use of the external terrace at the third floor general external amenity space to ancillary seating w/ overhead, extendable canopy and side, timber screer
Development Address	Dunnes Stores, 105-107 Saint Patrick's Street, Cork, T12P718
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.
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.	State the Class here
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

☒ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	State the Class and state the relevant threshold
☐ Yes, the proposed development is of a Class but is sub-threshold.	State the Class and state the relevant threshold
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required
No ☐	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____