Inspector's Report

PL-501846-DS-26

Development	PROTECTED STRUCTURE/RETENTION: Protected Structure Retention permission for an existing outdoor dining structure at ground level and associated works including the removal of advertising signage and commercial branding, refinishing of existing structure in a co-ordinated finish, replacement of canopy fabric with venue identification signage, and retention of projecting non-commercial national flags on both the Burgh quay and D'Olier Street frontages pursuant to Condition 7 of Planning Permission Ref 0090/00. Protected Structure (RPS Ref 1014).
Location	River Bar, 1 Burgh Quay/D'Olier Street, Dublin 2
Planning Authority	Dublin City Council

Planning Authority Reg. Ref.	WEB2237/26
Applicant(s)	Brooklyn Bars Limited
Type of Application	Retention Permission
Planning Authority Decision	Refuse retention permission
Type of Appeal	First party
Appellant(s)	Brooklyn Bars Limited
Observer(s)	None

Date of Site Inspection	26 September 2026
Inspector	Killian Harrington

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1.0 Site Location and Description

1.1 The subject site is located on the southern bank of the River Liffey on 1 Burgh Quay. It comprises a basement and ground floor commercial unit ‘River Bar’, which wraps around Burgh Quay and D’Olier Street at ground level. It is the ground floor unit of a large building, O'Connell Bridge House, which is 12 storeys and was built on the site of Carlisle House, which was built in 1779 and demolished in 1962. O'Connell Bridge House was completed in 1964.The upper sections of the building are in white concrete finish with a Heineken logo and clock on the side elevation. The site occupies a prominent corner which is highly visible from O’Connell Bridge. The upper portion of the building is a protected structure (RPS no 1014). At ground level, an outdoor dining structure belonging to the River Bar is present along Burgh Quay footpath with brand logo advertising displayed on the elevation and canopy of the structure at present.

2.0 Proposed Development

2.1 The proposed development comprises the retention of the following:

- Retention of existing outdoor dining structure at ground floor level and associated works including removal of advertising signage and commercial branding
- Refinishing of existing structure in a coordinated finish, replacement of canopy fabric with venue identification signage, and retention of projecting non-commercial national flags on both the Burgh Quay and D'Olier Street frontages pursuant to Condition 7 of Planning Permission Ref: 0090/00. Protected Structure (RPS Ref: 1014).

3.0 Planning Authority Decision

3.1 Decision

Dublin City Council refused retention permission with the following reasons for refusal:

1. The retention of the outdoor seating area, screened enclosure, extendable canopies, flags and associated branding and advertising would be injurious to the character and appearance of this sensitive streetscape within the O'Connell Street and Environs Architectural Conservation Area. By reason of their scale, extent, design and visual prominence, the structures and associated signage would detract from the special interest and character of the Architectural Conservation Area and would adversely affect the setting of the adjoining Protected Structure. The proposed development would contravene Policies BHA2(a) and (d), BHA7(a) and (b), and BHA9 of the Dublin City Development Plan 2022-2028, would create an undesirable precedent for similar development, and would undermine the Z5 zoning objective, which seeks to consolidate and facilitate the development of the central area and to preserve and enhance its civic identity. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

2. The retention of the flags and flagholders would be injurious to the character and amenities of this sensitive streetscape, would create visual clutter within the O'Connell Street and Environs Architectural Conservation Area, and would adversely affect the setting of a Protected Structure. The proposed development does not comply with Section 3.6 (Canopies, Flags and Security) of the O'Connell Street and Environs Scheme of Special Planning Control (2022). Accordingly, the development, if retained, would adversely affect the character and appearance of the Architectural Conservation Area, would set an undesirable precedent for similar development, and would be contrary to the proper planning and sustainable development of the area.

3. Having regard to the location of the outdoor dining structure on footpath lands under the control, management and maintenance of Dublin City Council, and in the absence of the consent of the relevant landowner, the retention of the structure would result in the permanent loss of public realm and pedestrian space in an area of high pedestrian activity. The development would diminish pedestrian amenity, impede pedestrian movement, and set an undesirable precedent for similar encroachments onto the public realm. The proposed development would therefore

be contrary to the proper planning and sustainable development of the area and the objectives of the Dublin City Development Plan 2022-2028 relating to pedestrian movement and the enhancement of the public realm.

3.1.1. Planning Authority Reports

The DCC planners report recommends refusal of retention permission for the existing outdoor dining structure, associated canopies, branding, advertising and projecting flags at the River Bar, Burgh Quay/D'Olier Street. The planner notes that the site occupies a highly prominent location beside O'Connell Bridge, within the O'Connell Street and Environs Architectural Conservation Area, the Liffey Quays conservation area, and includes a Protected Structure. While the site is zoned Z5 City Centre, the planner considered the proposal against policies relating to heritage protection, urban design and pedestrian movement.

The planner's report also criticised the extensive commercial branding of drinks companies, considering it visually intrusive and unsuitable in such a sensitive conservation setting. Although the applicant indicated that branding would be removed, the application was assessed as a retention application for what currently exists on site, leading the planner to conclude that retention should not be granted.

The report also objects to the retention of the projecting national flags and flagpoles, stating that they contribute to visual clutter and conflict with the O'Connell Street and Environs Scheme of Special Planning Control, which generally discourages flags and flagpoles in the area. Overall, the planner concluded that the development harms the character of the conservation area and the setting of the protected structure, results in a loss of public realm and pedestrian space, and would set an undesirable precedent for similar encroachments elsewhere in the city centre

The outdoor dining structure is located on what the Transportation Planning Division considers to be public footpath land managed and maintained by Dublin City Council, regardless of the applicant's claim regarding ownership. Retaining the structure would result in a loss of public realm and pedestrian space, reducing the

area available for walking. The transportation planning division was concerned that allowing the structure to remain would create an undesirable precedent, encouraging other nearby hospitality premises to extend into public footpaths, leading to a cumulative reduction in pedestrian space.

The planner accepted these concerns and concluded that the development would "prejudice the safe and efficient movement of pedestrians"

3.1.2 Other Technical Reports

- Drainage Division: Recommends grant subject to conditions.
- Transportation Planning Division: Recommends refusal.
- Conservation Division: Recommends refusal.
- Environmental Health Officer: Recommends grant subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland (TII): Recommendation for Section 49 Luas Levy to be applied if applicable to the development.

3.4. Third Party Observations

One submission raised the following concerns:

- Concern regarding application applying for retention and not a street furniture license
- Applicant has not sufficiently addressed legal ownership
- Applicant needs to clearly clarify and demonstrate that the development does not infringe on the public realm.

4.0 Planning History

4.1 Subject site

- Reg. Ref 0090/00 – Planning Permission granted by DCC for proposed development comprising of revised facades to north and west elevations to existing public house at ground floor only.

  This involved treatment to the front façade, which comprised a canopy over the front entrance and roller shutters. There is no reference to outdoor dining. Relevant conditions are as follows:

  7. Nothwithstanding the exempted development provisions of the Local Government (Planning and Development) Regulations, 1994 as amended, no further signs including any illuminated signs (including neon lighting) exhibited as part of a window display affixed to the inside of the glazing, illuminations, advertising structures, banners, canopies, flags, external security shutters, lighting fixtures or other projecting elements shall be erected or fixed to the building without a prior grant of planning permission.

  REASON: In the interests of visual amenity in a conservation area.

Relevant Enforcement History

- Ref. E0200/25: Alleged construction of extension and structure. Live case
- Ref. E0250/18: Flag and Flagpoles erected to front. Case closed as non-statutory barred.

5.0 Policy Context

5.1 Development Plan

Under the Dublin City Development Plan 2022 – 2028, the subject site is located on lands zoned Z5 (City Centre), with a land use zoning *objective 'to consolidate and facilitate the development of the central area, and to identify, reinforce,*

strengthen and protect its civic design character and dignity.' The proposed development to be retained is permitted in principle under this zoning as it relates to amendments ancillary to the existing use. The site comprises of a Protected Structure registered under RPS Ref. 1014. The site sits within a red-hatched Conservation Area (Liffey Quays) and is situated within the O'Connell Street and Environs Scheme of Special Planning Control.

Special Planning Control – O'Connell Street & Environs 2022

A SPCS is a plan made by Dublin City Council which sets out rules and goals around how land and buildings are developed in a particular Architectural Conservation Area. The O'Connell Street and Environs SPCS was adopted by Dublin City Council in November 2022. It covers O'Connell Street and surrounding streets, lanes, plazas and historic buildings. This SPCS aims to support the regeneration of O'Connell Street as Dublin's principal civic boulevard. The plan intends to improve the quality of the public realm, encourage investment and protect the street's historic and architectural character.

O'Connell Street and Environs Architectural Conservation Area.

Originating from the 1999 Dublin City Development Plan, the boundaries of the area are defined as follows: to the north of the river the area is centred on O'Connell Street, extending to Marlborough Street to the east, Moore Street to the west, Parnell Street to the north and the River Liffey to the south. To the south of the river, the area is centred on Westmoreland Street and D'Olier Street, extending to College Street to the south, Hawkins Street to the east and to rear of buildings fronting onto Westmoreland Street to the west. The exact boundaries of the proposed Architectural Conservation Area are delineated on the map entitled 'Proposed O'Connell Street Architectural Conservation Area. O'Connell Bridge House is stated as having Category 3 shopfronts.

Chapter 15: Development Standards - 15.17.5 Shopfront and Façade Design

The signage relating to any commercial ground floor use should be contained within the fascia board of the shopfront. Corporate signs will only be permitted where they are compatible with the character of the building, its materials and

colour scheme and those of adjoining buildings Advertisements and signs relating to uses above ground floor level should generally be provided at the entrance to the upper floors, in a form and design which does not detract from or impinge upon the integrity of the ground floor shopfronts, or other elevational features of the building. Shopfronts sponsored by commercial brands will generally not be permitted.

Appendix 17: Advertising and Signage Strategy

This sets out the Council's policy framework for outdoor advertising and signage across the city. The strategy divides the city into a series of advertising zones based on architectural, historic, environmental and urban character. The zoning framework includes Zone 1: Historic and architecturally sensitive areas (strong presumption against advertising), which the subject site is in.

Scheme of Special Planning Control O'Connell Street and Environs (2022).

Section 3.4 Shopfront Signage

To actively encourage high quality shopfront displays, it is an objective of this Scheme that the following signage restrictions shall apply to all uses: All signage and advertisements (both external and internal) require planning permission within the O'Connell Street Architectural Plan Area, notwithstanding Part 2 Exempted Development – Advertisements {Article 6} of the Planning & Development Regulations 2001 (as amended) or any regulations revoking or re-enacting these regulations

Section 3.6 Canopies, Flags and Security

- Canopies, if considered necessary by reason of key corner sites / landmark buildings and appropriately integrated into the overall shopfront, shall be traditional style, open ended and in a muted tertiary colour. Shop names or advertising on the blind are not permitted.
- All flags and flagpoles will require planning permission. Flags and flagpoles shall not generally be permitted as a profusion of such items in a confined area can lead to visual clutter in the streetscape.

Section 5.1 Street Furniture

In regard to the public footpaths, certain forms of street furniture on paths or private landings will not be favourably considered. These include tables and chairs for bars in inappropriate locations. All street furniture will require either a licence under Section 254 of the Planning and Development Act 2000 (as amended) or planning permission (including street furniture erected on private landings)

Policy BHA2 Protected Structures

Development will conserve and enhance protected structures and their curtilage and will:

(a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011)

(d) Ensure that any development, modification, alteration or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials

Policy BHA7 Architectural Conservation Areas

This policy seeks:

(a) To protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area, and its setting, wherever possible. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA.

(b) Ensure that all development proposals within an ACA contribute positively to the character and distinctiveness of the area and have full regard to the guidance set out in the Character Appraisals and Framework for each ACA.

Policy BHA9 Conservation Areas

This policy seeks to protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible".

Policy CCUV12 Shopfronts – Requires a high quality of design and finish for new and replacement shopfront signage and advertising.

Policy SMT11 Pedestrian Network - To protect, improve and expand on the pedestrian network, linking key public buildings, shopping streets, public transport points and tourist and recreational attractions whilst ensuring accessibility for all, including people with mobility impairment and/or disabilities, older persons and people with children.

Policy SMT12 Pedestrians and Public Realm - To enhance the attractiveness and liveability of the city through the continued reallocation of space to pedestrians and public realm to provide a safe and comfortable street environment for pedestrians of all ages and abilities.

Policy SMT14 City Centre Road Space - To manage city centre road-space to best address the needs of pedestrians and cyclists, public transport, shared modes and the private car, in particular, where there are intersections between DART, Luas and Metrolink and with the existing and proposed bus network.

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.

Section 8.5.6 Sustainable Modes - The reallocation of space to pedestrians and their prioritisation in the movement network are key priorities of the plan.

Improvements to the pedestrian environment will be proactively sought through the Development Management process.

Policy Objective SMT02 Improving the Pedestrian Network - To improve the pedestrian network, and prioritise measures such as the removal of slip lanes, the introduction of tactile paving, ramps, raised tables and kerb dishing at appropriate locations, including pedestrian crossings, street junctions, taxi ranks, bus stops and rail platforms in order to optimise safe accessibility for all users.

Appendix 5 Transport and Mobility Technical Requirements

- *Section 2.1 Development Management Layout and Access* states that the layout for all developments shall seek to maximise pedestrian permeability within the development and to improve pedestrian and cycle linkages to the wider road network, as far as possible. A walkability and/or cyclability audit may be required depending on the location of the development and existing provisions within the local road network.

Other Policy Guidance

- The Shopfront Design Guide (Dublin Corporation, November 2001) notes that shopfronts form an important part of a street's character as they constitute a highly visible part of the building at street level. It sets out the various guiding principles, including the context and the relationship to the building overhead and adjoining buildings. Appendix 1 of the guide outlines a checklist of design points to consider.

5.2. Natural Heritage Designations

The site is c. 3.3km southwest of South Dublin Bay and River Tolka SPA and North Dublin Bay proposed NHA and 3.4km northwest of South Dublin Bay SAC and South Dublin Bay proposed NHA. It is 5km southwest of North Dublin Bay SAC, and North Bull Island SPA

6.0 EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning & 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

The first party appeal provides a detailed summary of the subject site, proposal and Development Plan policies. The appeal contends that the proposal is modest in scale and is ancillary to a lawful, long-established city-centre public house. In response to the heritage and visual amenity concerns, the appeal strongly disputes the suggestion that the development would harm the O'Connell Street and Environs Architectural Conservation Area or the setting of the protected structure. The appellant argues that similar outdoor dining facilities exist elsewhere in the city centre, including within the conservation area itself, and therefore the Council's concern regarding precedent is overstated and unsupported.

The appeal also challenges the transportation and pedestrian movement concerns that formed part of the refusal. It argues that no evidence was produced by the Council to demonstrate that the outdoor seating area has caused pedestrian congestion or obstruction. Regarding the flags and the landownership issue, the appeal claims that the flags are modest, common features associated with hospitality venues and do not create visual clutter or damage the character of the conservation area. On the land ownership issue, the appellant submits that it provided the written consent of the landowner, Carlisle Trust Ltd., when lodging the application and notes that the application was validated by the Council. The appeal therefore concludes that all three reasons for refusal are flawed and that the retention and upgrading of the outdoor seating area and flags should be permitted. The specific grounds of appeal are set out below:

1. The Council supported outdoor seating area previously

The appellant's argument is that Dublin City Council has repeatedly licensed outdoor tables and chairs at this location under Section 254 licences from 2013 to 2021, and that this history was not properly considered in the DCC planning assessment. The appeal argues that if these licences had been taken into account, the planning assessment may have reached a different conclusion. The appellant characterises the outdoor seating area as a long-established and previously accepted feature rather than a new intrusion into the public realm.

2. Proposed improvements

The appeal contends that the application was not simply seeking retention. The appellant argues that it also proposed the removal of branded advertising, rationalisation of signage, replacement of finishes, and introduction of a more subdued appearance. The appeal contends that the Council incorrectly assessed only the existing structure on site and ignored the proposed remediation works because of its interpretation of the application as retention-only.

3. No significant impact on the protected structure or ACA

The appellant argues that the Council failed to demonstrate specifically how the development harms the O'Connell Street and Environs Architectural Conservation Area. It states that the protected structure designation applies only to the upper façade of O'Connell Bridge House, the River Bar is at ground-floor level and is excluded from the protected structure designation, the outdoor area is small (24 sq. m.), the works are lightweight and reversible and the Council's assessment contains only general statements rather than identifying any actual heritage harm.

4. Similar outdoor facilities exist in a ACA

The appeal argues that the Council's concern about creating a precedent is unsustainable because outdoor seating areas already exist throughout the city centre and within the conservation area itself. The appellant specifically refers to premises such as Flanagan's and Beshoff's on O'Connell Street and argues that outdoor dining is entirely consistent with the Z5 City Centre zoning objective.

5. No evidence of pedestrian obstruction

In relation to the transport concerns, the appellant argues that the Transportation Section produced no evidence of pedestrian conflict or obstruction, there is adequate remaining footpath width, pedestrian volumes are overstated, the neighbouring premises already influence pedestrian movement; and photographs demonstrate that pedestrian circulation remains possible. The appeal therefore rejects the finding that the terrace prejudices pedestrian movement or results in an unacceptable loss of public realm.

6. The flags do not create visual clutter

In relation to the second reason for refusal, the appellant argues that the national flags are modest and appropriate features commonly associated with hospitality premises. It contends that the flags add colour and vitality to the streetscape, that the relevant planning policy only states flags are "not generally" permitted rather than absolutely prohibited, and that each proposal should be assessed on its own merits.

7. O'Connell Bridge House is not a heritage asset of high quality

The appeal states that O'Connell Bridge House is a heavily criticised 1960s building. The appellant quotes from the ACA document itself, which identifies the building as a discordant element in the streetscape. The appeal suggests that the outdoor seating area and flags cannot realistically damage the heritage value of a building that the ACA itself regards as architecturally problematic.

8. The landownership refusal is not relevant

Against the third refusal reason, the appellant argues that a letter of consent from Carlisle Trust Ltd. was submitted, the application was validated by the Council, the Council never sought further ownership information and the planning permission does not confer property rights in any event. The appeal therefore contends that ownership issues are civil/legal matters rather than planning matters, and should not justify refusal.

7.2. Planning Authority Response

The PA request that the Commission uphold their decision to refuse retention permission. If permission is granted the following conditions should be applied:

- Payment of a Section 48 development contribution
- Payment of a Section 49 Luas X City development contirbution

7.3. Observations

None

8.0 Assessment

8.1. The proposal involves retention of existing outdoor dining structure at ground floor level and associated works including removal of advertising signage and commercial branding and regularising the existing structure in a coordinated finish, replacement of canopy fabric with venue identification signage, and retention of projecting non-commercial national flags. The planning authority refused retention for three reasons comprising (1) adverse impact of all structures and advertising on the Architectural Conservation Area and protected structure (2) adverse impact of the flags and flagholders on the Architectural Conservation Area and protected structure and not in keeping with the Scheme of Special Planning Control and (3) in the absence of the relevant consent from Dublin City Council, the loss of footpath and public realm space.

8.2 It is clear that Dublin City Council has repeatedly licensed outdoor tables and chairs at this location under Section 254 licences from 2013 to 2021. Following a review of the file, assessment of the relevant planning policies and inspection of the site, I am satisfied that the principle of the proposed structures including any external corporate branding to be retained in permissible under Z5 zoning. I consider the primary concerns in this appeal relate to (1) Impact on both the Architectural Conservation Area and Protected Structure and (2) Impact on Public Realm

8.3 *Impact on Architectural Conservation Area and Protected Structure*

The site is in a highly visible location from O'Connell Bridge and is located within the O'Connell Street and Environs Architectural Conservation Area, the Liffey Quays Conservation Area and is within proximity of a protected structure. Only the upper portion of the subject building, O'Connell Bridge House, is a protected structure (RPS no 1014). At ground level, the subject outdoor dining structure belonging to the River Bar is present along Burgh Quay footpath with brand logo advertising displayed on the elevation and canopy of the structure at present.

8.4 The planning authority, having received advice from their Conservation Officer, maintain that the retention of this outdoor seating area together with its screened enclosure, extendable canopies, flags and associated branding and advertising would be injurious to the character and appearance of this sensitive streetscape within the O'Connell Street and Environs Architectural Conservation Area (ACA). By reason of the scale, extent, design and visual prominence, the structures would detract from the special interest and character of the ACA and would adversely affect the setting of the adjoining Protected Structure. The planning authority concluded that the proposed development would therefore contravene Policies BHA2(a) and (d), BHA7(a) and (b), and BHA9 of the Dublin City Development Plan 2022-2028.

8.5 Furthermore, the flags and their flagholders would be contrary to Section 3.6 (Canopies, Flags and Security) of the O'Connell Street and Environs Scheme of Special Planning Control (2022).

8.6 I would not share the planning authority's concerns over the adverse visual impact of the outdoor terrace structure and its canopy. The proposal seeks to remove all corporate logos, advertising and illuminated signage. What would remain would appear neat and respectful in scale and colour in relation to the host building and I do not agree that it would dominate the streetscape or harm views of O'Connell Bridge House. The subject building is already large and incongruous with the large and recognisable 'Heineken' logo. The adjacent public house 'JR Mahons' comprises a retractable canopy with advertising logos, although I have not identified a planning history for this structure. The subject covered structure, as

proposed and being devoid of advertising and signage, would be in keeping with this scale and massing and would not detract from the building's upper floors.

8.7 The appellant argues that the Council failed to demonstrate specifically how the development harms the O'Connell Street and Environs Architectural Conservation Area. It states that the protected structure designation applies only to the upper façade of O'Connell Bridge House, the River Bar is at ground-floor level and is excluded from the protected structure designation, the outdoor area is small (24 sq. m.). It also contends that O'Connell Bridge House, although with upper floors protected, is a modern building and is visually discordant with its surroundings.

8.8 I would agree with the appellant on both of these points. According to the ACA document, the ground floor unit of O'Connell Bridge House is a Category 3 shopfront. These shopfronts have generally lost most of or their entire original framework and their replacement s or their substantial remodelling will be encouraged, where appropriate.

8.9 I consider that the revised structure would contribute positively to the character and distinctiveness of both the ACA and the Conservation Area and would therefore protect and enhance the character and appearance of the area. Furthermore, that development would conserve and enhance the adjacent protected structure and its curtilage. The proposed revised structure and canopy is of neat appearance, has no advertising or logos and is appropriate in terms of the proposed scale, mass, height, density, layout and materials. I consider the canopied structure to comply with Development Plan policies BHA2, BHA7 and BHA9.

8.10 I would treat the flags and flagholders as a separate issue to the structure as a whole. The application is seeking the retention of 6 no. projecting non-commercial national flags on the Burgh Quay frontage and 4 no. flags on the D'Olier Street frontage. These are sited above the structure and affixed to the building itself. The application states that the retention is being sought in regard to Condition 7 attached to permission Reg. Ref. 0090/00. The condition restricts any further addition of further signage or affixed objects. Section 3.6 of the Scheme of Special

Planning Control for O'Connell Street and Environs (2022) outlines that 'flags and flagpoles shall not generally be permitted as a profusion of such items in a confined area can lead to visual clutter in the streetscape.' The appeal contends that the flags add colour and vitality to the streetscape, that the relevant planning policy only states flags are not generally permitted rather than absolutely prohibited, and that each proposal should be assessed on its own merits.

8.11 The appeal refers to other commercial premises and hotels in the area, along the quays and on O'Connell Street within the ACA that have protruding national flags including the adjacent public house JR Mahon's at 2 Burgh Quay, which has 4 no. protruding flags. I note this also to be the case. However, the subject building covers a much larger area and is very prominent in the streetscape. In addition, the subject application is for retention and the Scheme of Special Planning Control for O'Connell Street and Environs came into effect in 2022. Having regard to the content of Section 3.6 of that scheme ('Flags and flagpoles shall not generally be permitted'), I consider the flags to be visual clutter at this location and their retention would not be supported by the Development Plan and would cause harm to visual amenity in a highly prominent location.

8.12 I note also the concerns raised by the planning authority regarding the flags encroaching into the public realm and potentially interfering with the operation and maintenance of the public footpath. Overall, it is considered that the retention of the flags and flagpoles would cause injury to visual amenities of an Architectural Conservation Area and Conservation Area in the proximity to a protected structure and would be contrary to the Scheme of Special Planning Control for the area and contrary to Policies BHA2, BHA7 and BHA9. Their retention would also undermine the Z5 zoning objective, which seeks to consolidate and facilitate the development of the central area and to preserve and enhance its civic identity.

Impact on Public Realm

8.13 The planning authority's Transportation Planning Division (TPD) assessed the application, noting that the outdoor seating structure occupies a prominent city centre location with exceptionally high levels of pedestrian activity adjacent to

O'Connell Bridge. TPD advises that the structure is located on an area that forms part of the public footpath and is managed and maintained by Dublin City Council's Roads Maintenance Services Division

8.14 The appeal contends that the applicant is in full ownership of this land, no consent is required and that ownership issues are civil/legal matters rather than planning matters. This is noted. However, while the applicant may hold a legal title in the lands in question, the local authority still control, manage and maintain the public footpath. Therefore, in this case, the area currently occupied by the street furniture and structure for which retention permission is sought is located upon such lands which have always formed part of the public footpath and letter of consent would be required.

8.15 The Transportation Division's comments, which were accepted in the planner's report maintain that as a result of the structure, there has been an unacceptable encroachment onto the public footpath that involves loss of public realm and presents a safety hazard to pedestrians.

8.16 Having conducted a site inspection and assessed publicly available street view images, it is apparent that there were small tables and chairs in front of the premises and beneath a canopy since May 2011 and this seating area was licensed up to 2021 according to the planning authority. I have compared the previous canopied seating area with the current enclosed outdoor dining structure with seated area as it stands now. In my view, there has been an obvious extension into the public footpath by at least 0.6 metres, which is substantial enough to push pedestrians further northwards to navigate around what is now a hard and enclosable structure. Previously this pavement was open and traversable and the outdoor seating area had a 1 table depth from the wall beneath a smaller canopy whereas now this has increased to a depth comfortably accommodating two table widths with the added retractable canopy enclosure and hard appearance.

8.17 In addition to this encroachment into the pavement, I am of the opinion that the hardened and permanent appearance causes significant harm to the pedestrian

experience compared with the narrower canopied outdoor seating arrangement that was previously in place, which allowed both movement and visibility of the approaching junction with D'olier Street ahead. I consider that, from a mobility perspective, what has evolved since 2011 is significant. The volume of pedestrian activity is extremely high at this location and it is an important pedestrian junction at O'Connell Street Bridge. Without the adequate consent from Dublin City Council, the impeding of the public footpath would not be acceptable.

8.18 I note Section 5.1 of the Scheme of Special Planning Control for O'Connell Street and Environs relates to street furniture. This states that in regard to the public footpaths, certain forms of street furniture on paths or private landings will not be favourably considered. These include tables and chairs for bars in inappropriate locations. All street furniture will require either a licence under Section 254 of the Planning and Development Act 2000 (as amended) or planning permission (including street furniture erected on private landings). I note the appeal points to past issuing of licenses for the site. However, it appears there have been no new licenses issued since 2021.

8.19 The Development Plan identifies Burgh Quay as being part of the 'Civic Spine and Liffey Corridor' in Figure 8.2 (Strategic Pedestrian and Related Connections) of Chapter 8 'Sustainable Movement and Transport'. Mindful of Development Plan policies SMT11, SMT12, SMT14 and SMT18, there is a need to continue to maintain and improve the pedestrian environment in the city centre and avoid unnecessary and unsafe encroachments. Section 8.5.6 (Sustainable Modes) states that the reallocation of space to pedestrians and their prioritisation in the movement network are key priorities of the Development Plan. Improvements to the pedestrian environment will be proactively sought through the Development Management process.

Conclusion

8.20 I consider that the revised outdoor dining structure with no external advertising branding or signage would contribute positively to the character and distinctiveness of both the ACA and the Conservation Area and would therefore

protect and enhance the character and appearance of the area. Furthermore, the development would conserve and enhance the adjacent protected structure and its curtilage. I consider the proposed canopied structure to comply with Development Plan policies BHA2, BHA7 and BHA9.

8.21 I consider that the retention of the flags and flagpoles would cause serious injury to the visual amenities of an Architectural Conservation Area and Conservation Area in the proximity to a protected structure and would also be contrary to the Scheme of Special Planning Control for the area and contrary to Policies BHA2, BHA7 and BHA9. Their retention would also undermine the Z5 zoning objective, which seeks to consolidate and facilitate the development of the central area and to preserve and enhance its civic identity.

8.22 I consider the proposed outdoor dining structure to represent an unacceptable extension and encroachment onto the public footpath, removing a section of the public realm without the relevant consent from the local authority in an area of high pedestrian activity. This would not be in accordance with the policies and objectives of Dublin City Development Plan 2022-2028 including Section 5.1 of the Scheme of Special Planning Control for O'Connell Street and Environs and Chapter 8 'Sustainable Movement and Transport'.

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 urban area c. 3.3km southwest of South Dublin Bay and River Tolka SPA and 3.4km northwest of South Dublin Bay SAC. It is also approximately 5km southwest of North Dublin Bay SAC and North Bull Island SPA

9.2. The proposed development comprises retention permission for an existing outdoor dining structure at ground level and associated works in proximity to a protected structure including the removal of advertising signage and commercial branding, refinishing of existing structure in a co-ordinated finish, replacement of canopy

fabric with venue identification signage, and retention of projecting non-commercial national flags on both the Burgh quay and D'Olier Street frontages at River Bar, 1 Burgh Quay/D'Olier Street, Dublin 2 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 urban area

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 approximately 20 metres from the River Liffey channel.

10.2 The proposed development comprises retention permission for an existing outdoor dining structure at ground level and associated works in proximity to a protected structure including the removal of advertising signage and commercial branding, refinishing of existing structure in a co-ordinated finish, replacement of canopy fabric with venue identification signage, and retention of projecting non-commercial national flags on both the Burgh quay and D'Olier Street frontages at River Bar, 1 Burgh Quay/D'Olier Street, Dublin 2 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

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 retention permission be refused

12.0 Reasons and Considerations

12.1 Having regard to the site location, the zoning objectives for the site and the scale and appearance of the structures, it is considered that the retention of the flags and flagholders would be injurious to the character and appearance of the O'Connell Street and Environs Architectural Conservation Area and would adversely affect the setting of the adjoining Protected Structure, contravening Policies BHA2(a) and (d), BHA7(a) and (b), and BHA9 of the Dublin City Development Plan 2022-2028. The proposed flags would create an undesirable precedent for similar development and would undermine the Z5 zoning objective. Furthermore, the retention of the outdoor seating structure would involve an unacceptable encroachment onto a public footpath, would remove a section of the public realm and would adversely interfere with pedestrian movements at a busy

road junction. The proposal would therefore 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

30 September 2026

Appendix A: Form 1 EIA Pre-Screening

Case Reference	PL-501846-DS-26
Proposed Development Summary	PROTECTED STRUCTURE/RETENTION: Protected Structure Retention permission for an existing outdoor dining structure at ground level and associated works including the removal of advertising signage and commercial branding, refinishing of existing structure in a co-ordinated finish, replacement of canopy fabric with venue identification signage, and retention of projecting non-commercial national flags on both the Burgh quay and D'Olier Street frontages pursuant to Condition 7 of Planning Permission Ref 0090/00. Protected Structure (RPS Ref 1014).
Development Address	River Bar, 1 Burgh Quay/D'Olier Street, Dublin 2
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 Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☒ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. **No Screening required.**	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. **EIA is Mandatory. No Screening Required**	
☐ Yes, the proposed development is of a Class but is sub-threshold. **Preliminary examination required. (Form 2)** **OR** **If Schedule 7A information submitted proceed to Q4. (Form 3 Required)**	
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: 30 September 2026**