



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 4637/17

Appeal by Peter Cunningham and others of 23 Longwood Avenue, Dublin 8 and by others against the decision made on the 23rd day of February, 2018 by Dublin City Council to grant subject to conditions a permission to James Ryan and Janette Hurrell care of Manahan Planners of 38 Dawson Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Change of use from retail at ground floor of number 76 Camden Street Lower, and a car servicing/ car sales outlet at ground floor of number 41A Pleasants Street, to use as a licensed restaurant. These two premises were approved to operate at ground floor level as part of a single unit, joined by a new link building, for use as a retail outlet in application, planning register reference number 3075/16, (An Bord Pleanála appeal reference number PL 29S. 247171). That application also included numbers 75 and 75A Camden Street Lower (Protected Structures) which are not included in this application. No changes are proposed to other elements of that application. This application is confined to seeking permission for the change of use of the ground floor of number 76 Camden Street Lower and number 41A Pleasants Street and the link building between the two buildings.

All at number 76 Camden Street Lower and number 41A Pleasants Street, Dublin.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016-2022, and to the pattern of development in the area, the Board considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable use which would not injure the vitality and viability of the mixed-use area and would not lead to an overconcentration of restaurant uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board concurred with the decision of the planning authority and was satisfied that the nature and scale of the restaurant proposed was compatible with the charter and mix of uses on Camden Street.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) Prior to commencement of development, a scheme shall be submitted to, and agreed in writing with, the planning authority for the effective control of fumes and odours from the premises, including a suitable filtration system to eliminate cooking odours. The scheme shall be implemented before the use commences and thereafter permanently maintained.
- (b) External ventilation of the kitchen area shall be located a minimum of 25 metres from the rear boundary of the site.

Reason: In the interest of the amenities of the area and of property in the vicinity.

3. (a) The doorway entrance to the unit on the northern elevation onto Pleasants Place shall be used for deliveries and fire escape purposes only and shall not be used for customer or staff access or egress to the restaurant.
- (b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142 – “Method for rating and assessing Industrial and Commercial Sound”.

Reason: In order to ensure a satisfactory standard of development, in the interest of residential amenity.

4. Details of the external shopfront and signage, including the materials, colours and textures of the proposed shopfront, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All external signage shall consist of individually mounted and backlit lettering, the height of which shall not exceed 0.4 metres.

Reason: In the interest of visual amenity.

5. The restaurant use hereby approved shall not be used as a takeaway or for the sale of hot food for consumption off the premises other than where such use is clearly subsidiary to the main use as a restaurant.

Reason: In order to safeguard the residential amenities of the area.

6. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

7. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

8. The roller shutter and its casing shall be recessed behind the glazing and shall be factory finished in a single colour to match the colour scheme of the building prior to their erection. The roller shutters shall be of the open lattice type, and shall not be painted on site or left unpainted or used for any form of advertising.

Reason: In the interest of visual amenity.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

Paul Hyde

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2018.