

An
Bord
Pleanála

Board Order
ABP-309546-21

Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 3830/20

Appeal by Butler Ormond Management Limited care of Doyle Kent Planning Partnership Limited of 71 Carysfort Avenue, Blackrock, County Dublin against the decision made on the 29th day of January, 2021 by Dublin City Council to grant subject to conditions a permission to Yamamori Sushi Limited care of Keenan Lynch Architects of 4 Herbert Place, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: A development consisting of the ancillary late-night use of the existing ground floor restaurant/bar for nightclub use, and for the change of use of the rear first floor area from permitted storage use to bar and seating area at number 36 Strand Street Great. Permission is also sought for change of use of the existing private open space originally designated for use of apartments at rear of number 39 Lower Ormond Quay, to a smoking area associated with the adjoining existing restaurant garden for day and night-time use. Complimentary amenity space will be provided for the apartments at the rear of number 39 Ormond Quay on an existing roof space over the existing restaurant at first floor level as a planted roof terrace and seating area and all associated site works and services. All at number 36 Strand Street Great

(Yamamori restaurant) and the rear of number 39 Ormond Quay Lower, Dublin (a Protected Structure).

Decision

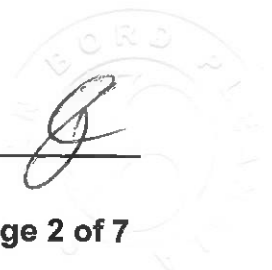
GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

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 pattern and character of existing development in the area, the planning history on the site and the provisions of the Dublin City Development Plan 2016-2022, it is considered that the proposed development, subject to compliance with the conditions set out below, would not detract from the mixed-use character of the area, would not detract from the residential amenity of adjoining properties, and would not detract from the character of the surrounding Protected Structures. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

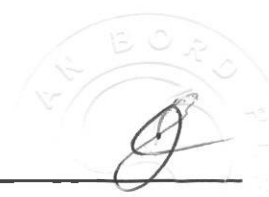


Conditions

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) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.
- (b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedence criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.



- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either
 - (i) during a temporary shutdown of the specific noise source, or
 - (ii) during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.
- (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to use of the premises. An acoustical analysis shall be included with this submission to the planning authority.

Reason: In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

3. Noise from the kitchen extraction fan at the proposed rooftop amenity space shall be controlled in accordance with the mitigation measures contained in the ICAN Acoustics report dated the 27th day of October, 2020.

Reason: In order to protect the amenities of residential property in the vicinity of the site.

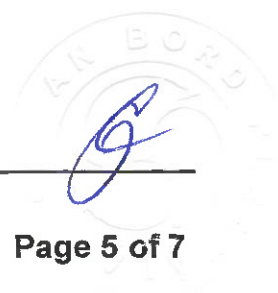
4. The operation of the proposed nightclub shall be limited to the ground floor area of 36 Strand Street Great only and no amplified music shall be played at the first-floor level of the property.

Reason: In the interest of clarity and of protecting the residential amenity of properties in the vicinity of the site.

5. Detailed plans and particulars in respect of the following shall be submitted to, and agreed in writing with, the planning authority prior to use of the premises:

- (a) Proposed opening hours.
- (b) Waste management and servicing.

Reason: In the interest of orderly development and to protect the residential amenities of properties in the vicinity.



6. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0700 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.

7. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, and any statutory provision replacing or amending them, no additional plant, machinery or telecommunications structures shall be erected on the roof of the building nor shall any external fans, louvres or ducts be installed without a prior grant of planning permission.

Reason: In the interest of visual amenity.

8. No signage, advertising structures/advertisements, security shutters or other projecting elements, including flagpoles, shall be erected on the building or within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

9. The developer shall pay to the planning authority a financial contribution of €960 (nine hundred and sixty euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

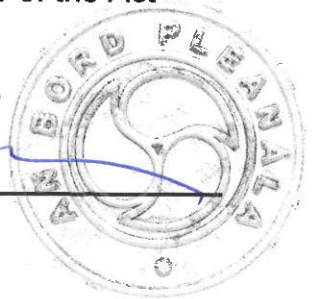
Reason: It is a requirement of the Planning and Development Act 2000, as amended that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



John Connolly

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 30th day of SEPTEMBER 2021.