



An
Bord
Pleanála

Inspector's Report ABP-301645-18

Development

RETENTION: The proposed development seeks the retention of the overall training studio (196.5 sqm) and ancillary accommodation comprising at ground floor level (175 sqm) reception, male changing room with ancillary WC/shower facilities, 3 no. training rooms and a courtyard (12.3 sqm); at mezzanine level (21.5 sqm) female changing room with ancillary WC/showers facilities. Retention permission is also sought for 1 no. projecting sign on front elevation onto Camden Street Lower (4000mm x 900mm).

Location

64, Camden Street Lower, Dublin 2

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

2393/18

Applicant(s)

Navitas Cross Fit

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal	First Party
Appellant(s)	Navitas Crossfit
Observer(s)	Liam Lennon
Date of Site Inspection	22 nd August 2018
Inspector	Ronan O'Connor

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1.0 Site Location and Description

1.1. The appeal site is located on the western side of Camden Street, on the ground floor of No. 64 Camden Street Lower, a 3 storey building. To the front at ground and first floor level there is an accountancy use, with a media use on the upper floors. To the middle and rear, on the ground floor, there is the gym/training studio use, with a changing room to the rear at mezzanine level. The gym/training studio use is subject of the appeal. The appeal site can also be accessed from the rear, off Pleasant's Place. The surrounding uses are a mixture of residential and commercial.

2.0 Proposed Development

2.1. RETENTION: The proposed development seeks the retention of the overall training studio (196.5 sqm) and ancillary accommodation comprising at ground floor level (175 sqm) reception, male changing room with ancillary WC/shower facilities, 3 no. training rooms and a courtyard (12.3 sqm); at mezzanine level (21.5 sqm) female changing room with ancillary WC/showers facilities. Retention permission is also sought for 1 no. projecting sign on front elevation onto Camden Street Lower (4000mm x 900mm).

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Refuse permission for two reasons relating to (i) impact on residential amenities as a result of disturbance (ii) impact on visual amenity and streetscape as a result of the signage.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority. Points of note are as follows:

- Residential zoning does not list gym as either Permissible or Open for Consideration in the current Development Plan,
- Retention of the gym is likely to have a detrimental impact on residential amenity having regard to excessive noise pollution and possible vibrations from the subject site.
- Concerns regarding the proposed retention of the signage. – design and materials are not of sufficient quality to enhance the streetscape value of the Conservation Area/not considered to be in accordance with the Shopfront Design Guide.
- Recommendation was to refuse permission.

3.2.2. Other Technical Reports

Environmental Health - Recommend conditions.

Drainage – No objection.

3.3. Prescribed Bodies

3.3.1. TII – May be subject to the Luas Cross City Levy.

3.4. Third Party Observations

3.4.1. A number of observations were received. The issues raised are as follows:

Principle

- Contravention of zoning.
- Address is incorrect – primary concerns Pleasant's Place.
- It is a gym not a fitness studio.

Amenity

- Noise and Vibration from heavy weights dropping and from music.
- Impacts on commercial users
- Operating hours are completely inappropriate for a residential area.

Other

- Traffic safety issues
- Structural damage
- Signage should be removed

4.0 Planning History

- 4.1.1. Planning Enforcement 1121/17 – Unauthorised change of use from offices to gym/unauthorised projecting sign.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

The site is zoned as Z1 “Sustainable Residential Neighbourhoods” where it is an objective “To protect, provide and improve residential amenities, in the current development plan”. Cultural/ recreational buildings are acceptable as a permissible use within this zoning. Appendix 21 of the Development Plan further defines cultural/recreational uses. A gymnasium falls within the definition of cultural/recreational uses. Relevant aspects of the Development Plan include:

- Section 11.1.5.4 - Architectural Conservation Areas and Conservation Areas.
- Policy RD15 - To require a high quality of design and finish for shopfronts.
- Section 16.24.3 - Signs of Shopfronts and Other Business Premises.
- Guidance provided in the “Dublin City Council’s Shopfront Design Guidelines”

5.2. Natural Heritage Designations

- 5.2.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Grounds of Appeal, as submitted by the First Party Appellant, are as follows:

General

- Camden Street has a mix of uses.
- Subject use occupies a secondary space and comprises a vibrant use in an otherwise backland area.
- Contributes positively to the use character profile of the area replacing a light industrial use a recreational use supportive of the mixed use residential village character.
- Applicants have invested to upgrade the interior of the building/ensure structural stability of the building/improve sound mitigation/sound insulation/rubber mats/
- Applicants replaced existing signage

Planning History

- Building has been used in the past for a variety of commercial and light industrial activities and had an established gym use by Bodytech.
- Has been used by printers and office purposes/warehousing/artists studio.

Use/Zoning

- Differ from standard gyms in that they do not contain traditional gym machinery
- Crossfit operates at two separate locations in Kimmage and Camden Street
- Numbers attending the gym are limited at anyone time
- 'Clean and jerk movement ' i.e. dropping of weights has been eliminated from classes.
- Permissible uses include cultural and recreational building and uses/these uses include a gymnasium

- Subject use is therefore permissible within the zoning objective for the site.
- There is established precedent for a gym use in both Z1 and Z5 zoning including 3371/17 – 110 to 114 Amiens St, 3846/14 – 8 to 10 Harrington Street Dublin 8.
- The Board has also granted proposals for gyms including PL30.243183 – St. Joesphs Street Limerick, PL29.244853 – 8 to 10 Harrington Street, PL29N.246897 – Block B, Smithfield Market, Dublin 7.
- This misinterpretation of the Development Plan renders the decision of the Planning Authority fundamentally unsustainable and legally unsound.

Amenity

- The appeal site does not have any residential component and therefore could not be described as a residential location.
- Buildings in the immediate vicinity are either office, commercial or retail use and/or contain an element of residential at upper levels only.
- Impact of noise and vibration is overstated by observers and is not proven.
- Number of outdoor uses that do not appear to have an adverse impact on residential amenity.
- Further information on noise could have been requested or conditions attached to a permission.
- No training will take place in the courtyard between the two training rooms.
- Sound insulation underlay and 15mm rubber mats have been installed throughout the training rooms.

Signage

- Numerous projecting signs, logos, advertising banners etc along Camden Street.
- Request that the Board grant permission for its retention. However, applicant would accept a planning condition to remove the signage/reduce it in size.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. One observation has been received from Liam Lennon, Cronafulla North, Athlone, Roscommon.

- Owner of 63 Camden Street Lower/property has 3 residential apartments and shares a boundary wall with the appeal site.
- There is a significant residential component to this area.
- Impact of the development on residential amenities.
- Businesses that operate in this block are resident friendly.
- Development causes daily distress and noise disturbances often starting at 5.45am until 9.45pm.
- Have been numerous complaints from residents.
- Main noises include loud music, instructors shouting, and from dropping of weights.
- Noise and vibrations can be heard from the 2nd floor kitchen of Apartment 3 in 63 Camden Street Lower.
- Apartment Number 1 shakes when large weights are dropped.
- Extensive network of hairline cracks in apartments – appears to relate to the extreme vibrations and shockwaves coming from the use.
- Crossfit is causes serious disturbances in other cities.
- Cannot be classified as a residential amenity – most members are simply passing on their way to and from work.
- Space is used more intensely than a regular gym/classes are large
- Use is not permissible under the current development plan
- The opening hours are inappropriate for a residential area.
- Road safety issues.
- Installation of mats on the floor has had little impact on the problem.
- Dropping of weights can still be heard in every apartments.

- Tenants have moved out because of noise.
- Signage should be removed/is disproportionate to the other vertical signage.
- This area is zoned Z1 not Z4/Z5.
- Participants use free weights which create far more noise than stationary weight machines.
- The other Crossfit site is in an industrial estate with no residential neighbours.
- Clean and jerk lifting is an essential part of cross fit/ the employees cannot control this.
- Cannot compare the noise from a café to the noise from this facility.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Residential Amenity
- Signage
- Appropriate Assessment

7.2. Principle of Development

7.2.1. It is stated in the planner's report that a gym use is not a permitted use or open for considered within the Z1 zoning. This is contested by the applicant who state a gym use is in fact permitted, as it is a cultural/recreational use. The observer on the appeal argues that the application is not for a standard gym, as the unit is used more intensively than a standard gym use.

- 7.2.2. I note the application is to retain a training studio. It is my view that a training studio and gym use are one of the same, given the nature of activities that occur within these. A gym is defined within the Oxford English Dictionary as ‘a place, typically a private club, providing a range of facilities designed to improve and maintain physical fitness and health’. While a training studio is not defined, it is not unreasonable to conclude that a training studio would also fall within this definition. A gym would also typically have training classes a part of their offering.
- 7.2.3. In relation to the principle of the use, then, I note that the site is zoned as Z1 “Sustainable Residential Neighbourhoods” where it is an objective “To protect, provide and improve residential amenities, in the current development plan”. Cultural/ recreational buildings are acceptable as a permissible use within this zoning. Appendix 21 of the Development Plan further defines cultural/recreational uses. A gymnasium falls within the definition of cultural/recreational uses. As such a gym is permitted in principle. The acceptability of the proposal, however, is subject to the considerations below, including the impact on surrounding amenity.

7.3. Impact on Amenity

- 7.3.1. Reason for refusal No. 1 of the decision of the planning authority refers to the impact on surrounding residential amenity, as a result of disturbance.
- 7.3.2. The applicants contend that the immediate and surrounding area is mainly commercial, office and retail, with only limited residential use on some upper floors of surrounding buildings.
- 7.3.3. The observer on the appeal states that this is not the case and that there is residential in close proximity, include three apartments at 63 Camden Street, of which he is the owner. Observations at application stage also indicate that there are residential units in close proximity to the site.
- 7.3.4. The main concerns which have been raised by the observer on the appeal, and by the third party submissions at application stage, are the noise and vibration associated with the dropping of weights, as a result of a ‘clean and jerk’ movement, where weights are lifted, then dropped to the ground. Also of concern is the noise associated with music emanating from the gym, and noise from instructors when classes are taking place. The operating hours are also of concern.

- 7.3.5. From my observations on site, and having regard to the submissions on file, it is apparent that there are residential units located immediately adjacent to the appeal site, at No. 63 Camden Street. The owner of these units states that the bedroom of one of these units shares a boundary wall with the appeal site. There are also residential units at the Daintree Building, accessed off Pleasant's Place, located to the rear of No. 61 Camden Street Lower.
- 7.3.6. There are two main studio areas on site, one to the middle of the site and one to the rear. There is a small courtyard area also. At the time of my site visit there was only a limited amount of equipment within these studios, although some equipment was in a small storage area.
- 7.3.7. The main consideration in my view, is if this particular unit is suitable for a gym/training studio use, having regard to its location relative to neighbouring residential units. The noise and vibration occurring as a result of the dropping of weights is clearly a concern for neighbours and this is acknowledged by the applicant, who state that this 'clean and jerk' movement, which results in the dropping of weights, is not allowed in this venue, and would accept a condition that prevents this. However, it is my view that such a condition would be unenforceable. Indeed allowing a gym/training studio use in this location would essentially allow for this type of activity, that one associates with a gym use, either under this current operator, or a future operator of a consented gym use.
- 7.3.8. It is my view that the unit is in too close to neighbouring residential units, and that noise emanating from the gym/training studio, including that from the dropping of weights, from amplified music and from instructors, is having an adverse impact on surrounding amenity. It could be argued that a condition should be imposed on noise levels. However, given the nature of the noise emanating from the gym, which include 'one-off' loud noises associated with dropping of weights, I do not consider a condition relating to noise levels would be enforceable.

7.4. **Signage**

- 7.4.1. The second reason for refusal relates to the impact on the signage on the streetscape and visual amenities.
- 7.4.2. The applicant argues that there is similar signage in the vicinity although would accept a condition requiring the removal of the signage.

7.4.3. From my observations on site, the area surrounding the appeal site has many examples of signage of various types, including signage similar in scale and design to that proposed for retention here, including that for 'The Thesis Centre' at 66 Camden Street Lower and for 'Pan TV' at 69 Camden Street Lower, the latter being somewhat iconic of the area. As such the signage proposed for retention does not appear out of context, and it is my view that it is appropriate in scale and contributes to the character of the area. There is no adverse impact on the streetscape nor on the visual amenity of the area.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the development proposed for retention, within a serviced area and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development proposed for retention would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

8.0 **Recommendation**

8.1. I recommend that permission be refused for the reasons and considerations below.

9.0 **Reasons and Considerations**

1. Having regard to the proximity of neighbouring residential units, it is considered that the gym/training studio use proposed for retention would be seriously injurious to surrounding residential amenity, as a result of noise, vibration and disturbance. As such the proposal would be contrary to the proper planning and sustainable development of the area.

Rónán O'Connor
Planning Inspector

23rd August 2018