



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316856-23

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<b>Development</b>	Section 254 Licence for 28 chairs with 12 tables.
<b>Location</b>	37 & 38 Camden Row, Dublin 8
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	SF647
<b>Applicant(s)</b>	Trebleside DAC of the Fat Fox
<b>Type of Application</b>	Section 254 Licence.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Trebleside DAC of the Fat Fox
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	02.08.2023
<b>Inspector</b>	Fiona Fair

## 1.0 Site Location and Description

- 1.1. The subject site is located on the on the footpath on the northern side of Camden Row at its junction with Liberty Lane. 37 and 38 Camden Row share a northern boundary with the rear of 26 Wexford Street.
- 1.2. 37 and 38 Camden Row is in use as The Crafty Fox Cafe/restaurant. 23-25 Wexford Street is located to the east and 39-40 Camden Row also located to the east of the subject premises comprise a venue known as Whelan's.
- 1.3. The road carriageway along Camden Row is one-way in front of the subject site / The Crafty Fox. Traffic can enter the street from Wexford Street direction only. It is a shared pedestrian and vehicular surface. Liberty Lane is one way also with access only to the right along Camden Row. There are bollards on both sides of Camden Row along with a no parking sign. The width of this street is approx. 6.6m – 6.7m. There is a cash and carry premises on the opposite side of the street with open space for car parking distribution vehicles and cars. This parking and distribution area stretches further down Camden Row.
- 1.4. There is no other street furniture in the immediate vicinity.

## 2.0 Proposed Development

- 2.1. This is an application for a licence to place 12 tables and 28 chairs along Camden row outside The Crafty Fox premises.
  - The seating area proposed is described as 30.2m in length and 0.9 – 3.0m in width.
  - 12 no. tables and 28 chairs
  - The dimensions of the tables are 600mm diameter round tables.
  - The proposed screens are timber and glass.
  - The proposed hours of operation are 17.00 until 23.00 pm (weekdays); 13.00 to 23.00 hrs (weekends)

## 3.0 Planning Authority Decision

### 3.1. Decision

The Chief Executive Managers Order MO No. OCR SF 126/23 (dated 03.01.2023) states:

“Order: Application for annual street furniture licence to place street furniture outside Fat Fox, 37/38 Camden Row, Dublin 8, is hereby refused on the grounds that it would constitute a hazard to pedestrians, cyclists and vehicles using this shared surface increasing potential for conflict; the users of the street furniture would also be at risk. Therefore it is recommended that this application is refused.”

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

None on file – Street furniture application.

#### 3.2.2. Other Technical Reports

Fire Prevention Officer: Report states:

- The width of the proposed application area has increased by 1m from the previously approved area. The application does not indicate a minimum clear width of 3.5m for emergency vehicle access.
- The length of the area has increased significantly and has extended past a significant amount of the adjoining property (Whelan’s) and is blocking several doorways incl. at least one escape route from Whelan’s, which is unacceptable.
- Travel distance of approx. 16 m to an escape point is unacceptable. A clearly defined walkway / break, achieving a width of 1m is to be maintained between every section(s) of street furniture exceeding 10m in length, to allow for pedestrian access / egress and Emergency Services personnel access / egress.

Transportation Planning Division: Report states:

“The proposed development takes place within the laneway of Camden Row, which is a shared surface. It extends approx. 30m to the front of neighbouring premises with a width of 0.9m to 3m, reducing the clear width of the shared surface of Camden Row. It is considered that placing street furniture on Camden Row would constitute a hazard to pedestrians, cyclists and vehicles using this shared surface increasing potential for conflict, the users of the street furniture would also be at risk. Therefore it is recommended that the application is refused. “

**3.3. Prescribed Bodies**

- None Received

**3.4. Third Party Observations**

- None Received

**4.0 Planning History**

- None Relevant.

**5.0 Policy Context**

**Development Plan**

5.1.1. The Dublin City Development Plan 2022 – 2028 is the pertinent statutory Plan.

5.1.2. Subject site is located on un-zoned lands with lands to the north zoned Z5.

Section 14.3.2 states: “Unzoned Lands - Certain small areas of land within the city are unzoned or not covered by a specific zoning objective. These lands are illustrated in white on the zoning maps accompanying the plan and usually correspond with the location of the city’s roads, bridges, train lines, or other key infrastructure installations. Development proposals in respect of these unzoned

lands will be considered in accordance with the policies and objectives of the plan. Regard will also be had to their compatibility with adjacent land-uses and zonings”.

5.1.3. Section 14.7.5 City Centre – Zone Z5 states: “Land-Use Zoning Objective Z5: To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity”.

5.1.4. Relevant sections and policy objectives with respect to the public realm, tourism and street furniture is set out in Chapter 4 ‘Shape and Structure of the city and Chapter 7 The City Centre, Urban Villages and Retail.

5.1.5. Also the following sections are of relevance:

#### Section 15.14.12 Licence Premises

Matters that shall be taken into account by the planning authority in assessing planning proposals for these uses and extensions to such uses include, but are not limited to the following:

The amenity of neighbouring residents and occupiers.

- Hours of operation.
- Traffic management.
- Shop frontage treatment and impact on streetscape.
- Proposed signage

#### Section 5.2.5 Restaurants

##### Cafes / Restaurants

CCUV30 To promote and facilitate the provision of cafés / restaurants in the city and support their role in making the city more attractive for residents, workers, and visitors and in creating employment.

##### Outdoor Dining

CCUV32 Proposals for outdoor dining / trading from premises extending into the street will be supported where they would not harm local amenity or compromise pedestrian movement, accessibility needs or traffic conditions.

##### Night Time Economy

CCUV35

To support and facilitate evening / night time economy uses that contribute to the vitality of the city centre and that support the creation of a safe, balanced and socially inclusive evening / night time economy.

## 5.2. **Natural Heritage Designations**

5.3. The site is not located within or adjacent to a Natura 2000 site.

## 5.4. **EIA Screening**

5.5. The proposed development is not of a type that constitutes an EIA project and environmental impact assessment is not required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

A First Party appeal has been submitted by SSA on behalf of the applicant, Trebleside DAC of the Fat Fox, 37 & 38 Camden Row, Dublin 8. It is summarised as follows:

- A similar application was previously granted by DCC after liaison and engagement with DCC planning department and the Fire Brigade.
- The out door seating operated for a 12 month period.
- Enhanced the passive surveillance of the area and prevent graffiti-ing of the rear of Liberty Lane.
- The proposal as agreed with Dublin Fire Brigade does not present any difficulties in relation to vehicular traffic and enhances the area from a social point of view.
- Recently agreed minimum width for fire truck access during opening times.
- Recently agreed a road closure and traffic management plan with DCC Roads department for Liberty Lane.

- Street furniture applications need to be encouraged to promote an outdoor tourist amenity.
- No artificial lighting is required.
- Restaurants and the service sector is a major wealth and employment generator and important to the economy of the city.

## 6.2. Applicant Response

- None Relevant.

## 6.3. Planning Authority Response

- None on file.

## 6.4. Observations

- None Received.

## 6.5. Further Responses

- None Relevant

## 7.0 Assessment

7.1.1. The proposed development is brought forward under section 254(1) of the Planning and Development Act 2000 (as amended). In their consideration of the development, under section 254(5) of the Act, the Board is required to have regard to:

- a. the proper planning and sustainable development of the area,
- b. any relevant provisions of the development plan, or a local area plan,
- c. the number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and
- d. the convenience and safety of road users including pedestrians.

7.1.2. Having regard to these requirements, local and national planning policy, the application details, the appeal submitted, all other documentation on file and my inspection of the site, I consider that the main issues for this appeal relate to:

- **The Proper Planning and Sustainable Development of the Area, Zoning and Compliance with Policy**
- **The Convenience and Safety of Road Users Including Pedestrians.**
- **Appropriate Assessment.**

## **7.2. The Proper Planning and Sustainable Development of the Area, Zoning and Compliance with Policy**

7.2.1. In terms of zoning, the site is located on the public footpath, which has an unclassified designation within the Dublin City Development Plan 2022 – 2028. Lands immediately adjoining are zoned ‘Z5’ City Centre. With the 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.’ Outdoor seating is not listed as either a ‘Permissible Use’ or ‘Open for Consideration Use’ in the land use zoning, chapter 14, of the Dublin City Development Plan 2022 - 2028.

7.2.2. As set out under Development Plan Policy section 5.0 of this report above outdoor dining and night time economy are encouraged within the city. The following policies set out in the DCC Development Plan enforce this.

### Outdoor Dining

CCUV32 Proposals for outdoor dining / trading from premises extending into the street will be supported where they would not harm local amenity or compromise pedestrian movement, accessibility needs or traffic conditions.

### Night Time Economy

#### CCUV35

To support and facilitate evening / night time economy uses that contribute to the vitality of the city centre and that support the creation of a safe, balanced and socially inclusive evening / night time economy.



- 7.2.3. I note that “The Craft Fox” premises, is in use, as a public house and restaurant, I note the number of tables and hours of operation proposed (17.00 until 23.00 pm (weekdays); 13.00 to 23.00 hrs (weekends)). There have been no objections to the proposal from surrounding premises. I note the city location and surrounding uses which comprise, clubs, venues, pubs and restaurants, essentially late night uses, peppered with other commercial premises. There are no other outdoor seating areas in the vicinity. The applicant submits that there were previously permitted an outdoor dining area at this location which operated successfully with no issues for 12 months.
- 7.2.4. Overall, I consider the extension to the useable area of the public house / restaurant currently on site, in the form of an outdoor seating area for customers to be acceptable in principle at this location, subject to it not compromising the convenience and safety of road users including pedestrians.

### **7.3. The convenience and safety of road users including pedestrians.**

- 7.3.1. I note the Chief Executive Managers Order MO No. OCR SF 126/23 (dated 03.01.2023) to refuse the licence application on the grounds that “it would constitute a hazard to pedestrians, cyclists and vehicles using this shared surface increasing potential for conflict; the users of the street furniture would also be at risk”. This decision is based upon the Transportation Planning Division report, and the Fire Prevention Officers Report as set out in section 4.0 of this report above.
- 7.3.2. The Transport Planning Division Report concludes that:
- “The proposed development takes place within the laneway of Camden Row, which is a shared surface. It extends approx. 30m to the front of neighbouring premises with a width of 0.9m to 3m, reducing the clear width of the shared surface of Camden Row. It is considered that placing street furniture on Camden Row would constitute a hazard to pedestrians, cyclists and vehicles using this shared surface increasing potential for conflict, the users of the street furniture would also be at risk. Therefore, it is recommended that the application is refused. “
- 7.3.3. The Fire Prevention Officers report concludes that the proposal does not comply with requirements of fire safety, is unacceptable and needs to be reviewed.

- 7.3.4. Regard is had to the applicant's argument that a similar application was previously granted and operated successfully for 12 months. However, the transportation report and the fire officers report raise significant material issues which the first party has failed to address. Camden Row is a shared surface, restricted in term of width to accommodate vehicles, cyclists and pedestrian movement. It is inferred that the area now proposed to be used for outdoor seating has been enlarged and does not comply with safety requirements.
- 7.3.5. Having carried out a site visit and reviewed the information and submissions on file I concur with the Transport Planning Division and the Fire Prevention Officer that clear width for emergency vehicles and access for emergency services personnel access / egress has not been adequately addressed and there is potential for conflict and to confirm the licence would give rise to a hazard to pedestrians, cyclists and vehicles using this shared surface increasing potential for conflict, the users of the street furniture would also be at risk.

#### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

It is recommended that the Board directs the planning authority to Refuse the licence subject to the following reason and consideration:

## 9.0 Reasons and Considerations

1. Having regard to consideration of the development, under section 254(5) of the Planning and Development Act 2000, as amended, it is considered that the proposal to place street furniture on Camden Row as per the layout proposed in the submitted 'Out Door Seating Plan' that the proposal would compromise the convenience and safety of road users including pedestrians, traffic, emergency services vehicles and personnel access, cyclist's and patrons / users of the street furniture. The proposed development would, therefore, not be in accordance with the proper planning and sustainable development of the area.

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Fiona Fair

Senior Planning Inspector

02.09. 2023