

DEPUTY PLANNING OFFICER

APPLICATION NO.	4637/17
PROPOSAL	Permission to carry out a change of use from retail at ground floor of 76 Camden Street Lower, Dublin 2 and a car servicing/ car sales outlet at ground floor of 41A Pleasant's Street, Dublin 8 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 retail outlet in application Reg. Ref. 3075/16. That application also included 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 41A Pleasant's Street and the link building between the two buildings.
LOCATION	76, Camden Street, Dublin 2, 41A Pleasant's Street, Dublin 8
APPLICANT	James Ryan & Janette Hurrell 20, Lad Lane, Dublin 2
DATE LODGED	22-Dec-2017
ZONING	, ,
APPLICATION TYPE	Permission

FF/NC**23/02/2018****Date of Site Inspection:** 22nd January 2018**Site Notices:** In order**Zoning:**

Under the Dublin City Development Plan 2016-2022 the site is located in an area zoned objective Z1 which seeks: 'To protect, provide and improve residential amenities.' The eastern part of the site fronting onto Camden Street is located within a conservation area.

Site Description:

The two premises are located at ground floor level on the western side of Camden Street with no. 76 fronting onto the conservation area of Camden Street and no. 41A Pleasants Street located to the rear. No. 76 Camden Street is a three storey terraced building with a former retail unit at ground floor level and adjoins the Protected Structure of no. 75 Camden Street. No. 41A Pleasants Street is a large two storey former car servicing/ car sales outlet which has frontage onto Pleasants Street to the north and Pleasants Place to the west. A ground floor link building, as permitted under reg. ref. 3075/16 links the rear of no. 76 to no. 41A Pleasants Street.

The Camden Street area to the east of the site is in mixed use with predominantly retail and commercial uses at ground floor level and a mix of office and residential overhead. To the west of the site, the area is mainly in residential use with office and commercial uses to the north and north west on the opposite side of Pleasants Street. No. 41 Pleasants Street adjoins the subject site to the north and comprises a three storey end of terrace building which was recently granted planning permission for renovation and extension as a three bedroom dwelling.

Proposal:

Permission to carry out a change of use from retail at ground floor of 76 Camden Street Lower, Dublin 2 and a car servicing/ car sales outlet at ground floor of 41A Pleasants Street, Dublin 8 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 retail outlet in application Reg. Ref. 3075/16. That application also included 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 41A Pleasants Street and the link building between the two buildings.

Site Planning History:

3075/16: Decision to refuse planning permission by Dublin City Council overturned by An Bord Pleanála at appeal for development consisting of: - the demolition of the rear single storey extensions to Nos. 75 and 76 Camden Street Lower (c. 38.4 sq.m gross floor area); - the provision of a new single storey link (c. 73.5 sq.m net floor area) comprising shop use (to accommodate use Class 1 of Schedule 2 Part 4 of the Planning and Development Regulations 2001-2015) connecting the Ground Floor Levels of Nos. 75 and 76 Camden Street Lower to the Ground Floor Level of No. 41A Pleasants Street; - the change of use of the Ground Floor Level of No. 41A Pleasants Street from a former service garage/ car sales to shop (to accommodate use Class 1, of Schedule 2, Part 4 of the Planning and Development Regulations 2001-2015) (c. 359.3 sq.m net floor area); - and the continued use of the existing shops at Ground Floor Levels of Nos. 75 and 76 Camden Street Lower. These works will result in the provision of one shop unit (from two existing shop units and former service garage/ car sales) measuring c. 523 sq.m net floor area. There are no changes proposed to the size of the existing shop unit (c. 20.8 sq.m net floor area) at Ground Floor Level of No. 75A Camden Street Lower. A new circulation space (lobby) (c. 6 sq.m net floor area) connecting the new link to No. 75A Camden Street Lower and the First and Second Floor Levels of Nos. 75 and 76 Camden Street Lower is also proposed. The proposed development results in a gross floor area of c. 602.9 sq.m (including ancillary space such as circulation cores and walls) at Ground Floor Level of the subject site. The proposed development also consists of the refurbishment of Nos. 75 (which includes No. 75A) and 76 Camden Street Lower comprising alterations and repairs to the buildings where appropriate including: the removal of an existing WC extension from the rear facade of No. 75 (c. 3.1 sq.m gross floor area) and associated repairs; the replacement of the existing shop fronts to Nos. 75, 75A and 76; the enlargement of existing opes in the rear walls of Nos. 75 and 76 at Ground Floor Level to allow connection with the proposed new shop link to No. 41A Pleasants Street; the refurbishment and replacement of windows where necessary; and the refurbishment of the existing office spaces at First and Second Floor Levels of Nos. 75 and 76, including the creation of new WC, lobbies and kitchenettes on each floor, and alterations to existing partitions on each floor where applicable. A terrace is proposed on part of the roof of the new single storey link, with associated guard rail to the terrace's southern perimeter. The development will also consist of associated internal and elevational alterations to No. 41A Pleasants Street; all hard and soft landscaping; changes in level; associated site servicing (foul and surface water, drainage and water supply); and all other associated site excavation and site development works above and below ground.

Condition no. 5 of this permission required the following:

“The retail units hereby permitted shall be used solely as shops, as set out in Class 1 of Part 4 of Schedule 2 to the Planning and Development Regulations 2001, as amended, and shall not be used for the sale of hot food, or hot beverages, for consumption off the premises. The units shall not be used as restaurants.

Reason: In order to support the vitality and viability of this part of Camden Street Lower, having regard to the zoning objective and other policies set out in the current Development Plan for the area.”

3442/15: Planning permission refused for works including the change of use from Hairdressing at 75B Camden Street Lower, Dublin 2, retail shop at 75A Camden Street Lower, Dublin 2, and Light Industrial at 41a Pleasants Street, Dublin 8 to 650 sq.m retail and ancillary services on the ground floor with new stairs access to the upper floors, removal of internal walls to combined 75A & 75B Camden Street Lower and a single storey infill extension to the rear of 75 & 76 Camden Street Lower, Dublin 2 which will connect to the ground floor at 41A Pleasants Street, Dublin 8. There is no proposed change of use on the upper floors or ground floor shop to No 76 Camden Street Lower, Dublin 2. The works will also include the lowering of the ground floor, associated site works and new shop front, sign and door to 75 Camden Street Lower, Dublin 2. The reason for refusal stated the following:

“1. The proposed development relates to a protected structure located within a conservation area. Having regard to the significant amount of demolition and floor clearance proposed at ground floor, the severance of the ground floor level from the upper levels of the structure, the severance of the upper floor levels from the street and the interconnection with an extant warehouse to the rear it is considered that the proposed development would materially affect and significantly damage the character of the structure, is inappropriate to the significance of the protected structure and is seriously out of character with the historic streetscape's character, grain and fabric. The proposed

development would, therefore, contravene materially policies FC26, FC27, FC30 and section 17.10.1 of this Development Plan and is, therefore, contrary to the proper planning and sustainable development of the area.”

Relevant Planning Policy

Under the Dublin City Development Plan 2016-2022 the site is located in an area zoned objective Z1 which seeks: ‘To protect, provide and improve residential amenities.’ Restaurant use is ‘open for consideration’ under this zoning.

Camden Street is identified as an “Historic Approach” under Chapter 4 of the Development Plan and policy SC2 states that “It is the policy of Dublin City Council to develop the city’s character by cherishing and enhancing Dublin’s renowned streets, civic spaces and squares; to create further new streets as part of the public realm when the opportunities arise; to protect the grain, scale and vitality of city streets; to revitalise the north and south Georgian squares and their environs, and to upgrade Dame Street/College Green as part of the Grand Civic Spine.”

The eastern part of the site fronting onto Camden Street is located within a conservation area. Policy CHC4 of the Development Plan states the following:

“It is the Policy of Dublin City Council to protect the special interest and character of all Dublin’s Conservation Areas. 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...Changes of use will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of Conservation Areas and their settings. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications and will promote compatible uses which ensure future long-term viability.”

Policy CEE18(iv) is also of relevance which states the following:

“It is the policy of Dublin City Council to recognise the major economic potential of the café/restaurant sectors, including as an employment generator; making the city more attractive for workers, residents, and visitors; providing informal work and business meeting spaces; to be a part of the city’s innovation ecosystem; and to encourage the provision of new cafés and restaurants, including on Category Two Retail Streets.”

Section 16.29 provides development standards for restaurants and states the following:

“The positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city is recognised. In considering applications for restaurants, the following will be taken into consideration:

- The effect of noise, general disturbance, hours of operation and fumes on the amenities of nearby residents
- Traffic considerations
- Waste storage facilities
- The number/frequency of restaurants and other retail services in the area (where a proposal relates to a Category 1 or 2 shopping street as defined in, ‘City Centre Retail Core, Principal Shopping Streets’ in Chapter 7 and Appendix 3).
- The need to safeguard the vitality and viability of shopping areas in the city and to maintain a suitable mix of retail uses.”

Section 16.24.3 of the Development Plan is also relevant which provides development standards for signs of shopfronts and other business premises.

Observations:

A number of observations were received in relation to the proposal and the main issues raised can be summarised as follows:

- Proposal would bring increased noise, odour, anti-social behaviour and devalue property in this residential area of Pleasants Street and Pleasants Place and would be first of this scale in residential streets and would create an unwelcome precedent.
- Opening hours of the proposed development should be restricted and any take away use is damaging to residential amenity.
- The proposal should be refused in accordance with An Bord Pleanála’s previous decision and condition no. 5 under reg. ref. 3075/16 and to prevent further encroachment of licensed premises on the adjacent residential area. The immediate area is saturated with restaurants.

- Excessive concentration of restaurants and take aways in this area.
- The nature of the proposal as a licensed premises would impact unacceptably on the residential amenity of adjacent residents, would materially contravene the zoning objective for the area and would be contrary to the proper planning and sustainable development of the area.
- If permission is granted, conditions should be attached to restrict opening hours, deliveries, the location of ventilation, the rear shutter and the entrance and that an odour control system be installed and used.
- The analysis of restaurant-retail ratio submitted with the application is misleading.
- Traffic considerations along Pleasants Place.
- Applicants should be required to submit a noise impact assessment and an odour impact assessment.

The contents of these observations are noted and will be taken into account in the assessment of the proposed development.

Reports from other departments:

Drainage Division report received: no objection subject to conditions.

Roads and Traffic Planning Division report received: no objection subject to conditions.

Planning Assessment:

Planning permission to sought to carry out a change of use from retail at ground floor of 76 Camden Street Lower, Dublin 2 and a car servicing/ car sales outlet at ground floor of 41A Pleasants Street, Dublin 8 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 retail outlet in application Reg. Ref. 3075/16. That application also included 75 and 75A Camden Street Lower (Protected Structures) which are not included in this application. This application is confined to seeking permission for the change of use of the ground floor of Number 76 Camden Street Lower and 41A Pleasants Street and the link building between the two buildings.

The proposed licensed restaurant use would have its main shopfront and entrance from Camden Street with a bar area for seating of approximately 25 people to the front and a restaurant area to the rear with a seating area for approximately 82 people. The kitchen area would be located along the northern side of the restaurant area. To the rear would be located customer toilet areas, a coldroom, storage and waste storage areas adjacent the rear goods entrance/fire escape onto Pleasants Street.

Restaurant use is 'open for consideration' under the Z1 zoning of the site 'To protect, provide and improve residential amenities.' Section 14.4 of the Development Plan states that "An open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area."

Condition no. 5 of the previous permission on the site under reg. ref. 3075/16 is noted which requires that the units at nos. 75 and 76 Camden Street Lower shall not be used as restaurants in order to support the vitality and viability of this part of Camden Street Lower, having regard to the zoning objective and other policies set out in the current Development Plan for the area.

A map of retail shops in the immediate area has been submitted by the applicant which indicates that 63% of the commercial units in the area are in retail use with 21% in restaurant use and 6% are public houses. It is noted that the map covers the area south of the subject site only along Camden Street and when the commercial units north of the subject site are also taken into account, it is noted that although there is a lot of restaurants in the area, there remains a large number of retail uses along Camden Street including convenience stores, bicycle shops, clothes shops and jewellers, in addition to banks, daytime cafes and offices. It is also noted that the subject application pertains to no. 76 Camden Street and 41A Pleasants Street, and retail uses are permitted at the adjoining nos. 75 and 75A Camden Street under reg. ref. 3075/16 granted planning permission. It is considered that the proposed restaurant use would not have a negative impact on the vitality and viability of this shopping area of Camden Street where a large number of retail uses remain and are permitted in the immediate area.

Section 16.29 of the Development Plan states the following in regard to development standards for restaurant use:

“In considering applications for restaurants, the following will be taken into consideration:

- The effect of noise, general disturbance, hours of operation and fumes on the amenities of nearby residents
- Traffic considerations
- Waste storage facilities
- The number/frequency of restaurants and other retail services in the area (where a proposal relates to a Category 1 or 2 shopping street as defined in, ‘City Centre Retail Core, Principal Shopping Streets’ in Chapter 7 and Appendix 3).
- The need to safeguard the vitality and viability of shopping areas in the city and to maintain a suitable mix of retail uses.”

The main concern of the Planning Authority in regard to the proposal is the impact of the proposed restaurant use on the neighbouring residential amenities, in particular to the rear and side of the site. A number of dwellings and a terrace are located opposite the subject site at Pleasants Place and no. 41 Pleasants Street adjoins the subject site to the north which was recently granted planning permission for renovation and extension as a three bedroom dwelling, including rooflights and a first floor terrace level.

It is recommended that a number of conditions are attached to protect existing residential amenities, including that any external ventilation of the proposed kitchen area shall be located a minimum of 25 metres from the rear boundary of the site in order to avoid impacts in terms of noise and odours on the adjacent dwellings and their terrace areas and that the side entrance onto Pleasants Street shall be for goods entrance/fire escape only and shall not be for customer access to the proposed restaurant.

Appropriate Assessment

Having regard to the nature and scale of the proposed development and the proximity to the nearest 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.

Recommendation:

Reasons & Considerations

Having regard to the nature and scale of the proposed development and the established pattern of development in the area it is considered that the proposed development would not injure the amenities of properties in the vicinity and, subject to compliance with the conditions set out below, it is considered that the proposed development accords with both the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

It is recommended that permission be **granted** subject to the following conditions:

1. Insofar as the Planning & Development Act 2000 (as amended) and the Regulations made thereunder are concerned, the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto. For the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices.

Reason: To comply with permission regulations.

2. The development shall comply with the following requirements of Dublin City Council:

a) Before the use thereby permitted commences, a scheme shall be submitted to, and approved in writing by 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 interests of the amenities of both the immediate neighbours and general surroundings.

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 industrial noise affecting mixed residential and industrial areas.

c) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 "Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control."

Reason: In order to ensure a satisfactory standard of development, in the interests 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 the commencement of development. All external signage shall consist of individually mounted and backlit lettering, the height of which shall not exceed 0.4m.

Reason: In the interests of visual amenity.

5. The restaurant use hereby approved shall not be used as a take away 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 locality.

6. Notwithstanding the provisions of the Planning & Development Regulations 2001(As Amended), no advertisement signs (including any signs installed to be visible through the windows); advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on the building or within the curtilage, or attached to the glazing without the prior grant of planning permission.

Reason: In the interests of visual amenity.

7. a. The requirements set out in the Bye-Laws for the Storage, Presentation and Collection of Household and Commercial Waste, 2013 or any revision thereof must be adhered to and, in particular, the requirement to segregate waste into separate fractions to facilitate the collection of dry recyclables, organic kitchen/garden waste and residual waste in line with Waste Management (Food Waste) Regulations 2009 (S.I. 508/2009), as amended.

b. The following are also requirements for commercial/industrial developments:

i) Receptacles that comply with an approved standard must be used, ideally of 1,100 Litre capacity; the use of plastic bags for the presentation of waste for collection is prohibited unless in an authorised designated area.

ii) Adequate storage space for a minimum of 1 No. 1,100 Litre receptacle.

iii) Sufficient space must be provided to accommodate the separate collection of dry recyclables and organic food/garden waste.

- iv) Sufficient access and egress must be provided to enable receptacles to be moved easily from the storage area to an appropriate collection point on the public street nearby.
- v) The receptacle storage areas should be designed so that each receptacle within the storage area is accessible to occupants/employees of the development (including people with disabilities)
- vi) Suitable wastewater drainage points should be installed in the receptacle storage area for cleaning and disinfecting purposes
- vii) Waste storage areas should not present any safety risks to users and should be well-lit
- viii) Adequate ventilation of waste storage areas so as to minimise odours and potential nuisance from vermin/flies.

Reason: In or to ensure a satisfactory standard of development.

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 interests of visual amenity.

9. The development shall comply with the following requirements of the Drainage Division of Dublin City Council:

- a) The development shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (see www.dublincity.ie Forms and Downloads).
- b) There shall be no discharge of trade effluent to Dublin City Council sewers except under and in accordance with a licence granted by Dublin City Council as required by the Local Government (Water Pollution) Acts, 1977 and 1990.

Reason: To ensure a satisfactory standard of development.

10. All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: To ensure a satisfactory standard of development.

11. (a) The site and building works required to implement the development shall only be carried out between the hours of:

Mondays to Fridays - 7.00a.m. to 6.00p.m.

Saturday - 8.00a.m. to 2.00p.m.

Sundays and Public Holidays - No activity on site.

(b) Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from Dublin City Council. Such approval may be given subject to conditions pertaining to the particular circumstances being set by Dublin City Council.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

12. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the

need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

13. The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division, the Roads Streets & Traffic Department and the Noise & Air Pollution Section.

Reason: To ensure a satisfactory standard of development.

14. The terms and conditions of the permission for the original development, which was issued under Reg. Ref. 3075/16 shall be fully complied with, except where modified by this permission.

Reason: To provide for an acceptable standard of development.

15. (a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 " Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control."

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