



Planning and Development Acts 2000 to 2017

Planning Authority: Dublin City Council

Planning Register Reference Number: 0096/17

WHEREAS a question has arisen as to whether the proposed use of the top level (Level 6) at Saint Stephen's Green Shopping Centre Car Park, Dublin for a temporary event as an outdoor movie theatre, with capacity for no more than 350 patrons per screening, together with associated facilities including the provision of a bar and food, being an event of recreational character, in which this property will not be used for this purpose either continuously for a period exceeding 15 days or occasionally for periods exceeding an aggregate 30 days in any year, is or is not development, and is or is not exempted development:

AND WHEREAS Jacobs Anderson Limited (t/a Outset Agency) care of Hughes Planning and Development Consultants of The Mash House, Distillery Road, Dublin requested a declaration on this question from Dublin City Council, and the Council issued a declaration on the 24th day of April, 2017 stating that the matter was development and was not exempted development.

AND WHEREAS Jacobs Anderson Ltd (t/a Outset Agency) care of Hughes Planning and Development Consultants of The Mash House, Distillery Road, Dublin referred this declaration for review to An Bord Pleanála, on the 22nd day of May, 2017.

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Sections 2, 3, 4 and Part XVI of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 9 and 183 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 37 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and
- (d) the documentation on file and the report of the Planning Inspector:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the erection of a proposed outdoor cinema screen on a temporary basis constitutes works as defined under Section 2(1) of the Planning and Development Act 2000, as amended, and is, therefore, development,
- (b) the use of the car park on a temporary basis as an outdoor cinema, with ancillary associated facilities including the provision of a bar and food, constitutes a change of use of the car park, and such change of use would raise material issues relating to the proper planning and development of the area, including impact on traffic in the area, and potential for impacts on the residential amenities of nearby properties, and is, therefore, a material change of use and is development,

- (c) having regard to the scale of the development, including the number of patrons outlined in the documentation on file, the development would not come within the scope of the provisions of an event for which licensing is required, pursuant to Article 183 of the Planning and Development Regulations, 2001, as amended, and, therefore, would not come within the scope of Part XVI of the Planning and Development Act 2000, as amended, and
- (d) the development would not come within the scope of Class 37 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, as it has not been demonstrated that the event in question is a local event:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the proposed use of the top level (Level 6) at Saint Stephen's Green Shopping Centre Car Park, Dublin, for a temporary event as an outdoor movie theatre, with capacity for no more than 350 patrons per screening, together with associated facilities including the provision of a bar and food, being an event of recreational character, in which this property will not be used for this purpose either continuously for a period exceeding 15 days or occasionally for periods exceeding an aggregate 30 days in any year, is development and is not exempted development.

In not accepting the Inspector's recommendation that the development would constitute exempted development, the Board was not satisfied, based on the documentation submitted with the referral, that the event in question, while it was of a recreational character, was a local event, and noted that, to come within the scope of Class 37 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, the event in question has to be a local event. The Board noted that this aspect was not part of the Inspector's assessment of the case.

