



An  
Bord  
Pleanála

## Inspector's Report PL29S.246925

---

<b>Development</b>	Change of use of 280 sq m to the ground floor only, from retail to amusement arcade, and associated alterations to ground level shop front at The Bull Ring, 67 – 70 Meath Street, Dublin 8.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2759/16
<b>Applicant(s)</b>	Colm Donoghue
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Appellant(s)</b>	1. Colm Donoghue
<b>Observer(s)</b>	1. Mandy Jackson 2. Francis Dempsey
<b>Date of Site Inspection</b>	18 <sup>th</sup> October 2016
<b>Inspector</b>	Hugh D. Morrison

## **1.0 Site Location and Description**

1.1. The site is located on the eastern side of Meath Street in a position towards the centre of this Street, which runs on a north/south axis between Thomas Street and The Coombe. Meath Street is composed of old and new multi-storey buildings, which at ground floor level are in predominantly retail/commercial use. Adjoining the site on its northern site is the entrance to The Liberty Market off Meath Street. This Market extends to the rear of the site, too, and it spans the block that is bound to the north by Engine Alley and to the south by Crostick Alley. It operates on Thursdays between 10.00 and 15.30, on Fridays between 10.00 and 16.00, and on Saturdays between 10.00 and 17.00. Further to the east and to the west of Meath Street lie residential areas.

1.2. The site is regular in shape and it extends over an area of 416 sq m. This site presently accommodates a modern three storey building (total floorspace 996 sq m), the principal elevation of which faces on to Meath Street and is composed of four shop fronts. Three of these shop fronts provide access to The Bull Ring Market, which extends over the majority of the building's ground floor. This Market comprises 33 units laid out along aisles. It operates between 09.00 and 18.00 on Wednesdays through to Saturdays. The remaining shop front at the southern end of the elevation serves a café, which is linked internally with the Market. The first and second floors of the building are in office use and they are accessed via a side entrance off Crostick Lane.

## **2.0 Proposed Development**

2.1. The proposal would entail a change of use of The Bull Market from retail use to an amusement arcade. This Market extends over an area of 280 sq m. The submitted plans show that this amusement arcade would extend over 215 sq m and that the remaining 65 sq m would be comprised in a retail unit that would be sited to the rear of the central one of the three shop fronts and to portions of the shop fronts on either

side. As a consequence of this unit, alterations to the three shop fronts would be necessary, including the omission of the central entrance to the northern shop front and the installation of a pair of shop windows in its place (an emergency exit would be installed on the northern side of this shop front to serve the amusement arcade).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Refusal on the following grounds:

- The proposal would fail to protect the amenities of adjacent residential properties, and
- Meath Street has an established casino and two betting shops and so the proposal would lead to a proliferation of similar uses, which would detract from the viability and vitality of the Street for active retail uses.

#### **3.2. Planning Authority Reports**

The report of the area planner can be summarised as follows:

- The site adjoins an established residential area that is zoned as such.
- Section 15.9 of the CDP states that in transitional zones involving residential areas that the amenities of these areas should be protected. Local concern indicates that this would not be the case.
- As there is already a casino and two betting offices on Meath Street, the proposal would result in a proliferation of similar uses, which the CDP categorises along with internet cafes, call centres, and hot food takeaways. Thus, the proposal would detract from the vitality and viability of Meath Street for active retail uses.

### 3.3. Other Technical Reports

- Drainage: No objection, subject to conditions.

### 3.4. Third Party Observations

See observers' submissions at the appeal stage.

### 4.0 Planning History

- **2163/15:** New shop front, new wall clock, and other elevational alterations/improvements to Meath Street + partial change of use from shop to coffee shop: Permitted.
- **2301/15:** New shop front to Crostick Alley + change of use of first and second floors from ancillary storage to offices, extension for utilities, and provision of roof terrace: Permitted.
- **3201/15:** Internal and consequential minor external alterations by way of amendments to the previous two permissions: Permitted.
- **2038/16:** Signage to the upper floors of the south western corner of the building: Refused on the grounds of visual clutter and consequent dis-amenity.

### 5.0 Policy Context

### 6.0 Development Plan

Under the Dublin City Development Plan 2011 – 2017 (CDP), the site is located in an area zoned Z4 (district centre), wherein the objective is “To provide for and improve mixed service facilities.” Amusement/leisure complexes are deemed to be

permissible uses under this zone. Section 17.27 addresses amusement centres as follows:

*Amusement centres will not be permitted in residential areas and will only be appropriate in mixed use areas where the proposed use is in keeping with both the scale of the building and the pattern of development in the area. It is an objective of Dublin City Council to prevent an excessive concentration of amusement centres.*

The CDP also shows the site as lying within an ACA.

Under the Liberties Local Area Plan 2009 (the life of which has been extended to 2020), Meath Street is described as being “the beating heart of the Liberties community” (pg. 17) and it cites as an economic objective the intensification of retail on this Street (pg. 85) while acknowledging the shortage of/need for larger floor plates to facilitate the location of anchor stores (pg. 88).

## **7.0 Natural Heritage Designations**

None.

## **8.0 The Appeal**

### **8.1. Grounds of Appeal**

The applicant begins by reviewing the CDP’s position on amusement arcades, which are defined in accordance with Article 5 of the Planning and Development Regulations, 2001 – 2015. He summarises this position as follows: The CDP indicates that amusement arcades have a place within the mix of uses on lower order retail streets. Subject to controls on over-provision and adverse impact on streetscape and amenity, they are acceptable within such streets in district centres. He proceeds to challenge the two reasons for the planning authority’s refusal, as follows:

In relation to the first:

- The site is incorrectly described as being in a neighbourhood centre, whereas it is in a district centre, which has a far greater catchment area. The 2011 Census indicates that there is a population of 12,000 within 10 minutes walking time of the site. The CDP seeks a diversity of uses for district centres to promote activity during the day and into the evening. An amusement arcade would achieve this objective.
- Section 15.9 of the CDP cites six factors of relevance to transitional zones, only one, that of use, would be relevant in this case. As the proposal is for a change of use only and the nearest residential area is to the rear rather than the front of the building, the impact upon amenity would be decidedly limited, less in fact than for the previous retail use or potential restaurant or bar uses.
- The perceived social impact would be addressed by the applicant insofar as he would operate the proposed amusement arcade in a socially responsible manner and in accordance with the licencing requirements that govern the same. As the building is already in use on the upper floors, he recognises the need to avoid any risk of a bad neighbour situation arising and he is willing to operate to reasonable opening hours.
- The addition of a second amusement facility to Meath Street is not considered to be excessive or an over intensification of such usage.

In relation to the second:

- The applicant undertook a land use survey of Meath Street, in which of the identified 68 retail/commercial uses, only 3 (or 4%) would be in the same category as the proposed one, i.e. 2 betting offices (Boyle Sports and Paddy Power) and 1 “Funfair” casino. Thus, the proposal would increase the said percentage to 5%, hardly a situation of proliferation, i.e. rapid and excessive spread.

- Furthermore, a betting office, Ladbrokes, recently closed and a solicitor's office has opened in its place and so 4 such uses (5% of the total) previously existed on Meath Street without concerns over proliferation.
- The vitality and viability of the Street would not be harmed by the proposal, as it would entail the continuation of a retail use on the street front and the discretely sited amusement arcade would be less prominent than the aforementioned betting office.

## 8.2. Planning Authority Response

The planning authority relies upon the case planner's report to justify its decision.

## 8.3. Observations

(A) Mandy Jackson

Writing on behalf of the staff and students at the National College of Art and Design on Thomas Street, objection is raised to the proposal on the grounds that it would have an adverse social impact and that it could be a venue for the laundering of profits from the sale of illegal drugs. Attached to this submission is a copy of a report from the Department of Justice and Law Reform, which under the heading of Minors states the following in Paragraph 4.5:

*It would not be permitted to locate any gambling facility – casino, betting office, adult gaming centre – close to schools or children's recreation areas. A licenced application would fail if the premises were found to be within a specified distance of such areas.*

The observer lists a number of schools and youth centres that are located near to the appeal site.

(B) Francis Dempsey of No. 45 The Timberyard, Dublin 8

- Attention is drawn to possible discrepancies in the area of the proposed amusement arcade with the description citing 280 sq m and the applicant's cover letter referring to 170 sq m.
- Scottish and Welsh national planning policies on amusement centres is cited. These policies state that such centres are unlikely to be acceptable in primary shopping streets, close to housing, or near schools, places of worship, hospitals and hotels, or where they are likely to affect amenity adversely, especially conservation areas.

The site is located on Meath Street, which is recognised as a primary retail street and an ACA in the Liberties LAP. The scale and ground floor location of the proposed amusement arcade would run contrary to this Plan's objectives for this Street.

As amusement arcades make a low contribution to the socio-economic fabric of an area and as there already is such an arcade on Meath Street, the proposal would not broaden the range of facilities on this Street.

- Research is cited which shows that a low percentage of shoppers are attracted to a retail area because of an entertainment use and that an even lower percentage of patrons of such uses avail of neighbouring shops.

Attention is drawn to Appendix 3 of the draft CDP, which seeks to encourage convenience shopping to meet the needs of the growing inner city population in areas such as the Liberties. The proposed use of the sizeable ground floor retail unit as an amusement arcade would represent a missed opportunity to facilitate such shopping. Given that this unit is considerably larger than most of the other units on Meath Street, this missed opportunity would be all the more regrettable.



- The proposed use is permissible under Z4 where it satisfies normal planning considerations, including the objective “To provide for and improve mixed services facilities” and the accompanying commentary which links the diversity of a comprehensive range of commercial and community services with the goal of vitality. This use would not further this goal.
- The nature of the use has not been elucidated, e.g. the apportionment of devices for amusement only and for amusement and prizes. Likewise, the hours of opening have not been disclosed or the policy that would be adopted with respect to the age of patrons.
- The scale and modernity of the proposal would be likely to attract young players from outside the Liberties with the attendant risk of anti-social or illegal behaviour.

While the applicant seeks to confine the definition of “amenity” to physical/ economic rather than social factors, such distinction can, in practise, be difficult to sustain. Economic and social factors are intertwined and some studies report a link between amusement centres and increases in crime rates.

The applicant has not submitted a social impact statement.

Without prejudice to the above cited grounds of appeal, if the Board is minded to grant permission, then a condition dis-allowing amusements with prizes is requested.

## 9.0 **Assessment**

The main issues in this appeal are those either raised in the grounds of appeal or they arise from an extended exploration of these grounds. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Description of the proposal
- Land use
- Amenity
- Streetscape
- Appropriate Assessment

### **(i) Description of the proposal**

9.1.1 Observer B draws attention to the description of the proposal, which states that the proposed amusement arcade would have a floorspace of 280 sq m whereas the applicant's cover letter cites 170 sq m in this respect. Furthermore, I note that the completed application forms state that the amusement arcade would have a floorspace of 215 sq m and the retail unit to the front would have a floorspace of 65 sq m. I note, too, that the submitted proposed ground floor plan appears to depict these latter figures.

9.1.2 In the event that the Board is minded to grant permission, confusion could arise between the aforementioned figures. I consider that such confusion could be allayed if a condition were to be attached stating that the amusement arcade is restricted to the 215 sq m shown on the proposed ground floor plan.

### **(ii) Land use**

9.2.1 Under the CDP, Meath Street is shown as being zoned Z5 (city centre) over its northern half and Z4 (district centre) over its southern half. The boundary between these two zones runs to the north of the site, i.e. it follows the line of Engine Alley and, on the western side of Meath Street, Meath Place. The CDP's commentary on the former zone states that the strategy for the same is "to provide a dynamic mix of uses, which interact with each other, creates a sense of community and which sustains the vitality of the inner city both by day and night." The CDP's commentary on the latter zone distinguishes district

centres from neighbourhood centres. Thus, it states that “They will have outlets of greater size selling goods or providing services of a higher order, and their catchment area extends spatially to a far greater area than neighbourhood centres would normally service.”

9.2.2 The Z5 zoning of the northern portion of Meath Street encompasses an entire block on the eastern side of the Street and frontage properties and an entire block on the western side of the Street. The Z4 zoning of the southern portion of Meath Street encompasses the frontage properties only. Beyond these properties to the east and west lie housing areas, the former is zoned Z1 (sustainable residential neighbourhoods) and the latter is zoned Z2 (residential neighbourhoods (conservation areas)).

9.2.3 While I recognise that Meath Street functions as an inter-connecting Street composed of retail/commercial uses, I recognise, too, that the aforementioned distinction in zoning indicates that goods and services of interest to the local community are of particular importance under Z4. The applicant estimates that this community has a population of 12,000 within a radius of 10 minutes walking time.

9.2.4 The proposal is for an amusement arcade and a shop, which would be sited at the front of the existing retail ground floor unit. Both these uses are permissible in principle under Z4, subject to normal planning considerations. Section 17.27 of the CDP addresses amusement arcades. It states that such arcades are appropriate in mixed use areas, where they would be in keeping with the scale of the buildings in question and the pattern of development in the area. An over concentration is to be avoided.

9.2.5 The planning authority’s second reason for refusal draws attention to the existence of a casino and two betting offices on Meath Street and so objection is raised on the grounds that the proposed amusement arcade would lead to a proliferation of such uses. The applicant has responded by stating that formerly

there was a third betting office, Ladbrokes, on the Street, but this has since been replaced by a solicitor's office. They contend that the arcade would not lead to a proliferation. During my site visit I observed that the said betting office has relocated to the south western corner formed by the junction between Thomas Street and Meath Street and so it is effectively still on Meath Street. In terms of Z4 and Z5, the casino and one of the betting shops are subject to the former zoning, while the remaining two betting shops are subject to the latter zoning.

9.2.6 Observer (B) draws attention to the lack of information with respect to the breakdown of space within the amusement arcade between gaming machines, on the one hand, and video games and other amusements, on the other hand. Such information as does exist, suggests that gaming machines would be installed, exclusively (cf. the indicative layout shown on the proposed ground floor plan). Thus, the planning authority's grouping of the arcade together with the casino and the betting shops, as similar types of uses, is justifiable.

9.2.7 The applicant has conducted a land use survey of Meath Street, which indicates that the aforementioned uses would, if Ladbrokes as well as the proposed amusement arcade are added in, come to over 7% of the ground floor units. They insist that this would not amount to proliferation.

9.2.8 Section 17.27 refers to the scale of the use with respect to the host building. While the proposal would include a retail unit (65 sq m or 23%), the majority of the ground floor at 215 sq m (77%) would change from retail use to an amusement arcade.

9.2.9 The Liberties LAP describes Meath Street as "the beating heart of the Liberties community" and it cites as an economic objective the intensification of retailing on this Street, while acknowledging the shortage of/need for larger floor plates to facilitate the location of anchor stores. At present the ground floor of the building operates as The Bull Ring Market on four days of the week. This

Market comprises 33 units laid out in aisles that are accessed from Meath Street by three external doors and one internal door via the adjoining café. It adjoins The Liberty Market, which operates on three days of the week that overlap with the said four days.

9.2.10 The applicant has not addressed what effect the closure of the former market would have on the latter one. Clearly, if synergies exist between the two, then there would be a risk that such closure would have an adverse impact upon the one remaining open. Insofar as these markets contribute to the dynamism of Meath Street, the loss of one would *prima facie* detract from the vitality and viability of this Street.

9.2.11 Observer B has submitted evidence which indicates that amusement arcades do not tend to attract shoppers and their patrons tend not to combine visits to such arcades with shopping trips. Thus, the synergies between the proposed amusement arcade and existing shops would be limited and not comparable with those that exist at present between the market hosted by the building on the site and these shops.

9.2.12 The frontage of the building extends over four shop fronts, although the southerly one is a café and not the subject of this application. The length of retail frontage of the three shop fronts is 17.2m at present. Under the proposal this would contract to 12.8m. However, the depth of the existing and proposed retail units would differ considerably, with the former ranging between 9.5 and 19.77m and the latter ranging between 3.1m and 5.59m. Thus, while superficially the street side retail presence would be maintained at a reduced level, in reality the scale of retail floorspace would fall dramatically. The building on the site has one of the larger retail floor plates available on Meath Street and it is these plates that the LAP identifies as being in short supply/needed.

9.2.13 I conclude that the proposed amusement arcade would tend towards an over concentration of gambling uses on Meath Street, it would entail the loss of one of two adjoining markets, which serve the local community, and as such it would detract from the vitality and viability of the Street, and it would also entail the loss of one of the larger retail floor plates, which are in short supply on the Street and thus the forfeiture of the opportunity that this floor plate represents for continuing retail use and the contribution that such use would make to vitality and viability.

### **(iii) Amenity**

9.3.1 The planning authority identifies the site as lying within a transitional zone between Z4 and Z1. Within such zones the amenities of residents are to be protected. Under the first reason for refusal, the authority judges that such protection would not be afforded. The observers support this reason.

9.3.2 The applicant has responded by drawing attention to the fact that the entrance to/exit from the proposed amusement arcade would be solely off Meath Street and the use itself would be wholly contained within the building. Thus, it would not require to be serviced from the rear and it would not entail installation of equipment associated say with a pub/restaurant that could affect residential amenity. They conclude that the identified dis-amenity does not refer to physical/environmental factors but to the anticipated social impact that may arise.

9.3.3 The applicant proceeds to offer reassurance as to the manner in which they would seek to run the proposed amusement arcade. They draw attention to the presence of the active office use on the upper floors and the need on their part to ensure that there is no risk of a bad neighbour situation developing.

9.3.4 I note that amusement arcades are required to be licenced and that there would be an opportunity under such an application to consider their social impact. Evidently, district court certificates in this respect can do the following:

- Limit the hours during which gaming may be carried on,
- Restrict the kinds of gaming and the extent to which particular kinds of gaming may be carried on, limiting the amount of stakes and prizes, and
- Restrict gaming by people under a certain age.

9.3.5 I note, too, that observer B has requested that, in the event that the Board is minded to grant permission, a condition be attached disallowing gaming with prizes. However, this matter is one for the district court to consider. The applicant has expressed a willingness to operate to reasonable hours and so I consider that a condition could be drafted to encompass the same.

9.3.6 I conclude that the proposed amusement arcade would be compatible with the amenities of the adjoining residential area and that the social impact of this arcade would be considered under the district court licensing process for this arcade.

#### **(iv) Streetscape**

9.4.1 The submitted plans show the existing and proposed western elevations. The former plans do not tally completely with the existing ground floor plan and they appear to be, at the level of detail, adrift from the shop fronts on site. The latter plans have been presented at a scale of 1: 200 and so they are insufficiently detailed to enable a full assessment of the proposed alterations to be made.

9.4.2 The site lies within an ACA. The shop fronts in the existing building have been modernised in the recent past and so they are of no conservation interest. That said they exhibit a certain uniformity that should be replicated under the proposed alterations.

9.4.3 I conclude that, whereas the proposed shop front alterations attract no objection in principle, they should be the subject of more detailed depiction at a

larger scale to ensure that they would be appropriate to the building within its streetscape context. Such depiction could be conditioned.

#### **(v) Appropriate Assessment**

9.5.1 The site is not located within or near to a Natura 2000 site. It is a fully serviced urban site. The current proposal is for a change of use only and so it poses no appropriate assessment issues.

9.5.2 Having regard to the nature and scale of the proposal, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **10.0 Recommendation**

10.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.



## 11.0 REASONS AND CONSIDERATIONS

Under the Dublin City Development Plan 2011 – 2017, the site on the southern half of Meath Street is zoned Z4 and so the provision of uses that provide goods and services to the local community is emphasised. Under the Liberties Local Area Plan, the intensification of retailing upon Meath Street is an objective.

The proposed use of the majority of the ground floor of the building on the site as an amusement arcade would add a fifth gambling use to Meath Street and so, in contravention of Section 17.27 of the Development Plan, it would tend towards an over concentration of such uses on this Street. It would also entail the loss of the existing retail market on this floor, which, in conjunction with the adjoining Liberty Market provide goods and services to the local community and complement the other retail uses on Meath Street, thereby contributing to the vitality and viability of this Street. The loss of this floor to retailing would further contravene the Local Area Plan which specifically identifies the need for larger shop floor plates on Meath Street to contribute to its future vitality and viability.

To accede to the proposed amusement arcade would thus contravene the City Development Plan and the Local Area Plan and as such it would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison

Inspector

19<sup>th</sup> October 2016