



An
Bord
Pleanála

Inspector's Report ABP-308390-20

Development	Change of use from vacant to casino/family entertainment
Location	Unit 32 Coles Lane, ILAC Shopping Centre, Dublin 1.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3078/20.
Applicant	Hammerson ICAV.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant	Hammerson ICAV
Observer(s)	None.
Date of Site Inspection	17 th December 2020.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by the applicant against the decision of the planning authority, on policy grounds, to refuse permission for the conversion of a vacant unit (formerly a restaurant) to a casino with family area in the Ilac centre, just off Henry Street in Dublin.

2.0 Site Location and Description

2.1. Ilac Centre/Coles Lane

The Ilac centre is a large shopping centre, opened in 1981, north of Henry Street in Dublin. It has approximately 80 stores of varying sizes in addition to a public library. The Coles Lane entry is between Dunnes Stores and the former Debenhams department stores and follows the alignment of the former Coles Lane, which ran directly between Henry Street and Parnell Street prior to the comprehensive redevelopment of the area in the 1970's.

2.2. Appeal site.

The appeal site, Unit 32 Ilac Centre, is a vacant 2-storey unit at the entry to the shopping centre at Coles Lane. It has a total floorspace given as 455 m² over a site area of 260 m². The main unit is on the western side of the main entrance at Coles Lane, with an access stairway on the opposite side.

3.0 Proposed Development

The proposed development is to consist of the change of use of the ground floor and first floor of unit no. 32 to a casino (304 m²) with an ancillary family entertainment area (48 m²), plus circulation.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for one reason - that it is considered that a non-retail use would adversely affect the Category 1 shopping

Street, would set a precedent for such a use, and result in a proliferation of such uses in the retail core. It was therefore considered to be contrary to policies RD12, CHC4 and Appendix 3 of the DCDP 2016-2022.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes that the site is within a Conservation Area (Policy CHC4)
- Notes that the lands area zoned objective Z5. It is noted that casino use is not indicated as a land use in the development plan. This is considered to be a non-retail use.
- Notes that Henry Street and Coles Lane are designated 'principal shopping Streets.' (Figure 8 of the Development Plan).
- Notes that permission was granted for a change of use of Unit 32 from retail to restaurant in 2018 (3797/18).
- It is noted that there are several casinos and gaming arcades within the immediate vicinity of the area on Henry Street, O'Connell Street and Parnell Street.
- It is considered that granting permission would be contrary to policy to maintain high quality retail functions on the primary city centre streets.
- Refusal was recommended.

4.2.2. Other Technical Reports

Drainage – no objections.

4.3. Prescribed Bodies

Transport Infrastructure Ireland requested a S.49 Levy if the development is not exempt.

4.4. **Third Party Observations**

None on file.

5.0 **Planning History**

Permission was granted in 2018 for the change of use of the unit from retail to a restaurant (**3797/18**), among other significant alterations within the shopping centre.

6.0 **Policy Context**

6.1. **Development Plan**

The site is located within an area zoned Z5 – ‘City Centre Mixed Use’ in the Dublin City Development Plan 2016-2022.

6.2. **Natural Heritage Designations**

The closest EU designated habitats are the coastal/littoral SAC’s and SPA’s of Dublin Bay.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

- Notes that the Planning Officer states in the report that ‘the provision of an amusement/leisure complex is a permissible use under the zoning objective for the area’ and that Casino use is not explicitly ruled out.
- It is noted that the proposed use will encourage horizontal use of the land, and as such is consistent with such objectives in zoning Z5.
- It is noted that the site already has permission for a non-retail use (restaurant).
- It is submitted that this unit has not been successful for retail/restaurant use as it is relatively isolated from other uses within the centre and suffers from the limited footfall on Coles Lane.

- The applicant has carried out all work associated with the previous permission to improve the Coles Lane frontage.
- It is argued that in the current context, there is serious strain on the retail market with a drop in footfall in such areas. It is argued that there is a worldwide trend to more leisure oriented uses on former retail premises, and it is argued that facilitating this would protect the overall viability and vitality of such centres.
- It is argued that the proposed use would be complementary to the existing use, and the location at Coles Lane is ideal because of the direct access to the street and the absence of any residential properties in the vicinity.
- A detailed analysis is presented of the current uses of the Ilac centre in support of an argument that the proposed development is in planning and legal terms a minor ancillary element of the overall development.
- Building on the analysis above, it is argued in some detail that is both complementary to the overall shopping centre, and aligns with a longer term strategy by the management to alter the overall mix in line with other centres such as Dundrum, which mix leisure, food and retail uses.
- It is argued that having a night-time mix on Coles Lane will encourage use of Coles Lane in the evening, which, it is submitted, would be beneficial, contrary to the assertion in the Planners Report, and would both improve footfall and would reduce anti-social activity on the lane, without causing injury to residential amenity.

7.2. Planning Authority Response

None on file.

8.0 Assessment

Having inspected the site and reviewed the file documents I consider that the appeal can be addressed under the following general headings.

- Principle of Development

- Development context
- Amenity
- Conservation
- Appropriate Assessment
- Other issues

8.1. Principle of Development

The site is in an area zoned Z5, with the objective:

To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.

It states (paragraph 14.8.5), that the primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development. It also emphasises horizontal uses, i.e., more use of upper floors. There is a wide range of permissible uses, including 'Amusement/leisure complex'.

The area is also identified as part of the Retail Core of the city (a category 1 designated shopping street).

The overall thrust of the development plan for such zone 5 areas is to encourage a vibrant mix of uses while protecting and enhancing the retail land uses. I note that 'casinos' in policy terms (paragraph 16.32 of the Development Plan) are considered a use with night clubs/licensed premises and private members clubs. It is noted that there is a need to balance the role of these uses with the objective to maintain high quality retail functions and to protect residential amenities.

In the reason for refusal, the planning authority referred to RD12:

'To ensure that Dublin adapts to developments in retail formats and changing lifestyles, having regard to the retail and settlement hierarchy set out in the core strategy',

And CHC4, which sets out to protect the special interest and character of Dublin's Conservation Areas.

It also refers to Appendix 3, the Retail Strategy for the city. This Strategy, states with regard to Category 1 streets (Section 3.7):

Category 1 and Category 2 shopping streets relate to the premier shopping streets within the City Centre Retail Core. The purpose of this designation is to protect the primary retail function of these streets as the principal shopping streets in the retail core and to strengthen the retail character of the central shopping core with an emphasis on higher order comparison retail and a rich mix of uses.

The designation controls the extent of provision of non-retail uses at ground floor level, but also allows for uses complementary to the main shopping focus such as a cafés, bars, restaurants and galleries. The Category 1 designation restricts the non-retail uses at the ground floor level of the main shopping streets, with a land-use emphasis in favour of higher order retail use at ground floor level.

Having regard to all the above, I would consider that the proposed use does not fall within specific 'permitted' or 'not permitted' categories, and so should be assessed on its own merits, but with specific regard to the objective to strengthen the retail character of the core.

8.2. Development context

The appeal site is part of the long established Ilac centre, which was developed in the 1970's and 80's on what was an existing network of older lanes in the backlands between Henry Street and Parnell Street. The layout of the mall to some extent follows the pattern of those lanes, including Coles Lane. Although somewhat dated in conception and design, the shopping centre has few vacant units and is still a vital part of the cities retail provision.

The site is located at what seems to be the least well-used of the four main pedestrian entrances to the centre. Coles Lane has long suffered from having minimal retail frontage, exacerbated by the design of the former Roches Stores/Debenhams building. This department store (now closed) has no entry and minimal presence on Coles Lane. On the opposite side, there is just a single, and not particularly well used pedestrian access to the Dunnes Stores. As a result, despite its prime location in what should be the heart of retailing in the north side, Cole Lane somewhat neglected, with visible anti-social activity during both daytime and the evening. There is a clear need for some type of street activity here, whether

it is frontages to the street or market stalls, but neither are within the control of the applicants. I note that even during the Christmas peak time there did not appear to be significant demand for stalls along Coles Lane despite its very close proximity to the heart of the Henry Street retail area.

The applicant makes the argument that this entry has significantly lower footfall than other parts of the centre, and it is quite visibly apparent that this is true. The small segment of Coles Lane within the centre has just a Virgin Media unit, with a Starbucks on one corner and the entry to Dunnes on the other. The 2 storey unit here would seem ideal for a restaurant or café, as permitted, but the applicants imply that there is no demand for such a unit, or at least not at current rents.

The applicants have argued that in the current and post-covid retail world, solely retail centres are less viable and need a wider mix of uses, specifically including leisure type uses such as those found in more recent developments, such as Dundrum. Of course, it is difficult to draw the distinction between the need for such a mix within the existing mall, and within the immediate area – if you look at the wider area between Abbey Street and Parnell Street there is a wide variety of different service uses, in particular if you include the Cineworld Complex. The planning authority in its report has emphasised concerns about the possible impact of an excessive concentration of what may be seen to be undesirable uses, such as arcades and casinos – these have tended to cluster on O’Connell Street/Talbot Street, and this can hardly be said to have improved the streets environs.

While I would accept the general argument made by the applicant that flexibility and change is vital for malls, streets, and retail areas to thrive and survive in the coming years, I find it difficult to see any strong justification on this for permitting a use like this on a vital entrance for the mall. It is as likely in my opinion to be problematic for Coles Lane as it is to be a benefit, either in daytime or in the evening. I do not consider that a case has been made to change the use from either retail or restaurant use as previously permitted.

I would therefore generally concur with the view of the planning authority that the proposed development would not significantly improve Coles Lane and could potentially be problematic for any attempts to improve this part of the city. I would therefore generally concur with the planning authority in its reason for refusal.

8.3. **Amenity**

The site is within the retail core and there are no residential units anywhere on this part of Coles Lane or adjoining areas, so no issues of residential amenity arise.

8.4. **Conservation**

The site is within an ACA but I note that there is no historic fabric in the vicinity – the Mall is a typical 1970/80's building of minimal merit. The adjoining modern buildings of the former Roches Stores/Debenhams and the recent Dunnes extension are high quality contemporary structures. The building at the corner with Henry Street appears to be early 20th Century date. The frontage of Arnott's department store is the main visual attraction within the visual envelope of the site. I do not consider that the proposal (which does not include any signage or lighting that would be associated with a Casino use), would have any impact on the ACA.

8.5. **Appropriate Assessment**

Having regard to nature of the proposed development and its location an existing shopping mall, with no significant physical alterations proposed, 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.

8.6. **Other issues**

I do not consider that there are other significant planning decisions arising from this appeal. I note that if the Board is minded to grant permission that **Transport Infrastructure Ireland** requested a Section 49 levy.

9.0 **Recommendation**

I recommend that the Board refuse permission for the proposed change of use for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the nature of the proposed use and its location within an area Zoned Z5 and within the Category 1 Retail Core of the city, it is considered that the change of use of this vacant unit to casino/family entertainment would adversely affect the predominantly retail mix of the area, including the mall and would thus be contrary to policies to strengthen the retail character of the central shopping core set out in the Dublin City Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Philip Davis
Planning Inspector

4th January 2021