



An
Bord
Pleanála

Inspector's Report ABP-316375-23

Type of Appeal	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax
Location	21-22 Gardiner Street Upper, Dublin 1.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	RZLT-000063
Appellant(s)	Kavaria Limited
Inspector	John Duffy

1.0 Site Location and Description

- 1.1. The subject site, located on the western side of Gardiner Street Upper and extending to Kelly's Row to the south west, contains two three storey over basement terraced Georgian buildings at Nos. 21 and 22 Gardiner Street Upper, Dublin 1 and two buildings fronting onto Kelly's Row. The two Georgian buildings are used as guest house accommodation.

2.0 Zoning and Other Provisions

- 2.1. The part of the site fronting onto Kelly's Row is zoned Z1 – Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2022-2028, and the area of the site fronting onto Gardiner Street Upper is located on lands zoned Z8 – Georgian Conservation Areas.
- 2.2. Nos. 21 and 22 Gardiner Street Upper are Protected Structures in the Dublin City Development Plan 2022-2028 (RPS Ref. Nos. 3108 and 3109 respectively).
- 2.3. The site is not located within an architectural conservation area (ACA) or areas of archaeological importance and there is no indication that the site is contaminated.

3.0 Planning History

- 3.1. There are no recent, relevant, valid applications on this site.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have their lands removed from the draft map on the basis that the subject site contains a commercial premises liable for rates, and that it operates as a guest house which accommodates residents from adjoining areas and further afield. Furthermore, the draft map includes part of the rear garden of the property which is required for use by the property.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site was in scope. The site is zoned for residential development, has access, or can be connected to public infrastructure and facilities as evidenced by grants of permission for development along Kelly's Row.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- Accept that the site is suitably zoned for residential development.
- Refute the comments/report of Dublin City Council that the site is accessible onto Kelly's Row. The existing shed at the rear of No. 21 Gardiner Street Upper is used for storage purposes and integral to the guesthouse use. No. 8A and No.10 Kelly's Row are in third party ownership and as such prevent the potential for development of the subject site.
- The business is liable for commercial rates.
- Accommodation is provided to residents of adjacent areas and further afield.
- The land identified for inclusion on the RZLT Map forms part of the rear of the site which is required for the existing commercial use on the site.

6.2. Planning Authority Response

- No response on file.

7.0 Assessment

- 7.1. I note that the boundary of the subject site is incorrectly denoted in Figure 1.0 of the appeal submission. The boundary of the site is however correctly indicated on the Ordnance Survey site location map lodged with the appeal. As such the subject site is readily identifiable.

- 7.2. The comments raised in the appeal submission are noted. The part of the overall site identified for inclusion on the RZLT map is zoned for residential use and the Planning Authority determined that the site remain on the RZLT map.
- 7.3. The site is serviced / is serviceable by public water and foul drainage. It is possible to provide for an access to the rear of the site given that the existing shed stated to be used for storage purposes, is indicated to be in the appellant's ownership. As such the lands could have development potential.
- 7.4. While the business is liable for commercial rates, I do not accept that the guest house provides services to residents of adjacent areas. Therefore, I consider the site does not satisfy the criteria for exclusion from the map as set out in section 653B (c) (i) of the Taxes Consolidation Act 1997 as amended.
- 7.5. I therefore consider that the site should remain for inclusion on the Residential Land Tax Maps as the site is suitably zoned for residential development and there is no reason as to why development cannot take place here.

8.0 Recommendation

- 8.1. I recommend that the board confirm the determination of the Local Authority and that the indicated site be retained on the map.

9.0 Reasons and Considerations

- 9.1. The appellant requested that their site be removed from the map on the basis that access to the site is restricted, that the guesthouse business is liable for commercial rates, that the guesthouse provides accommodation to residents of adjacent areas and further afield, and that the lands are required for the existing commercial use on the site.
- 9.2. The site is within an established urban area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes. The site does satisfy the criteria for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

I confirm that the report represents my profession planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

John Duffy
Planning Inspector

22nd August 2023