



An  
Bord  
Pleanála

## Inspector's Report ABP-316474-23

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<b>Type of Appeal</b>	Appeal under section 653J(1) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map
<b>Location</b>	15/17 Drumcondra Road Lower, Drumcondra, Dublin 9
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	RZLT-000098
<b>Appellant(s)</b>	Brimwood Limited
<b>Inspector</b>	John Duffy

## 1.0 Site Location and Description

- 1.1. The subject site, located on the eastern side of Drumcondra Road Lower is located approximately 80m southeast of Drumcondra Dart Station and comprises a mid-terrace 3 storey over basement building consisting of two properties accessed by one door. The building fronts onto the street and has a large rear garden extending to the east of the building. An alleyway accessed from Fitzroy Avenue runs to the rear of the subject site. The building is used as a guesthouse.

## 2.0 Zoning and Other Provisions

- 2.1. The subject site is zoned Z2 – Residential Neighbourhoods (Conservation Area) in the Dublin City Development Plan 2022-2028.
- 2.2. The site is not located within an area of archaeological importance and there is no indication that the site is contaminated.

## 3.0 Planning History

### 3.1. Subject site:

ABP-308540-20 (Referral) - The change of use from residential use to a hostel for homeless accommodation at 15/17 Lower Drumcondra Road, Dublin is development and is not exempted development.

0185/21 (Section 5 Declaration) – The Planning Authority decided that no material change of use has occurred in the change from use of residential building to provide long-term homeless accommodation.

Enforcement P.A. Ref. E0207/20 – Building works taking place/converted to hostel type building.

## 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 residential house liable for the Local Property Tax (LPT). The submission notes that the Planning Authority issued a Section 5 Declaration which deemed the subject property as a residential building (Reg. Ref. 0185/21 refers).

## **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 the use of the lands. The Planning Authority considered that the lands satisfy the relevant criteria under Section 653B of the Taxes Consolidation Act 1997 as amended.

## **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. The site is used as a residential property.
- Accept that the site has access and can be connected to public infrastructure and facilities.
- The site accommodates a commercial premises operating as a guesthouse, which 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 is required for the use of the property.
- The site accommodates a residential building and is liable for Local Property Tax (LPT). The appeal documentation includes a Statement of Account indicating payment of LPT in respect of 15 Drumcondra Road Lower for the period 2021 to 2023 inclusive.

### **6.2. Planning Authority Response**

- No response on file.

## **7.0 Assessment**

- 7.1. The comments raised in the appeal submission are noted. The 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.
- 7.2. The site is serviced / serviceable by public water and foul drainage. There is access to the rear of the site which could allow for the development of these lands.
- 7.3. The liability for LPT or RZLT is a matter for the Revenue Commissioners to address and is a not a function of the assessment stage of the appeal process.
- 7.4. While the business is liable for commercial rates, I do not accept that the guesthouse provides services to residents of adjacent areas. Therefore, I consider the site does not satisfy the criteria for exclusion from the map 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 the guesthouse business is liable for commercial rates, that the guesthouse provides accommodation to residents of adjacent areas and further afield, that the lands identified are required for the use of the property, and that the residential building on the site is subject to the LPT.

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. The issue of liability under which Tax Code is a matter for the Revenue Commissioners and is not a consideration under this process.

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.

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John Duffy  
Planning Inspector

28<sup>th</sup> August 2023