



An
Bord
Pleanála

Inspector's Report ABP-316567-23

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	19/ Rear of 18B Fairview Avenue Lower, Fairview, Dublin 3.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	RZLT-000027
Appellant(s)	Newcourt Pensioneer Trustees Limited, Ciaran Tuite and Michael Tuite.
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site, of 0.0912 hectares, contains an irregular shaped area of land located to the east of Fairview Avenue Lower, Fairview, on the northside of Dublin City Centre. The site forms part of a larger landholding. A large building is located on the site but is set back from the street. This structure may have formed part of the Fairview cinema in the past. Between it and the edge of the site is a surface car parking area which is fenced along the street edge.
- 1.2. The surrounding area consists of mostly residential properties with mixed use development located to the south of the site.

2.0 Zoning and Other Provisions

- 2.1. The site is zoned Z4 – Key Urban Villages/ Urban Villages in the Dublin City Development Plan 2022 - 2028. Residential development is permitted on these lands.

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 these properties are in commercial use by Fairview Motors, and secondly there is a right of way over part of the site.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site was in scope. The site is zoned for a use that allows for residential development and considering the location of the site, it can be serviced. The issue of the wayleave is noted, however the presence of this should not impede the development of this site. There are no known archaeological

or similar features on site or contamination that would impede the ability to develop the site for residential uses.

- 5.2. The use on site does not appear to have the benefit of planning permission, and the lands cannot be exempt from inclusion on the maps. The Planning Authority consider that the parking on site is not integral to the operation of a business on this site. The lands should therefore be retained on the RZLT maps.

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 can be fully serviced.
- The lands should not be included on the maps as there is a commercial business in operation on this site, since May 2015. The site is used as a car parking/ storage lot. Some of the car parking spaces are in use by businesses in the area. Details are provided and are on file.
- There is a right of way that bisects the site.
- A formal planning application is due to be lodged in Q1 2023.

6.2. **Planning Authority Response**

- No further comment.

7.0 **Assessment**

- 7.1. The comments raised in the appeal are noted. The Z4 zoning allows for residential development and there are no known restrictions on the availability of provision of services to this site. I note the comments regarding the right of way on the site, however this does not prevent the development of the site for residential use.
- 7.2. I note the submission made in support of the appeal and in particular the details of the leases that apply to this site. The leases that apply to the site are legal matters and are not relevant to this assessment/ process of inclusion on the RZLT maps.

The use of part of the car parking by businesses in the area, is not a reason for exclusion from the maps.

7.3. The Planning Authority reported that the use on site does not have the benefit of a planning permission and therefore the lands cannot be considered to be exempt from inclusion on the RZLT maps.

7.4. 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, except for Unit 76G.

9.0 Reasons and Considerations

9.1. The appellant requested that their site be removed from the map due to the fact that these lands were in operation by a commercial business, the car parking was necessary for the business and some spaces were also in use by other businesses in the area. In addition, a right of way over the lands, restricted the potential for development of these lands.

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. In the absence of identification of planning permission for the uses of this site, it is considered that the site does not demonstrate exemption from inclusion on the RZLT maps. In addition, the car parking use and right of way do not provide for a suitable justification for exclusion from the RZLT maps. The site does satisfy the criterion 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.

Paul O'Brien
Planning Inspector

3rd July 2023