



An  
Bord  
Pleanála

## Inspector's Report ABP-316902-23

---

**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**

White Heather Industrial Estate and  
12A Saint James Terrace, Dublin 8.

**Planning Authority**

Dublin City Council

**Planning Authority Reg. Ref.**

RZLT-000084

**Appellant(s)**

U and I (White Heather) Limited

**Inspector**

Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The subject site contains the White Heather Industrial Estate which is located to the north of the Grand Canal and south of the South Circular Road in Dublin 8. Access is from the South Circular Road. The site contains a number of light industrial/warehouse units facing onto a central car parking area and access road.
- 1.2. An Post have a delivery office and yard located to the eastern side of the site, and which has a separate access to the rest of the site. This part of the site can and does operate independently of the rest of the site.
- 1.3. The lands to the north east and north west are primarily in residential use and the lands to the south consist of a grass bank, forming part of the northern side of the Grand Canal.

## **2.0 Zoning and Other Provisions**

- 2.1. The site is located on lands zoned Z1 – Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2022 – 2028.
- 2.2. The site is located within a Conservation Area associated with the Grand Canal, however there are no protected structures, national monuments or any other item indicated on the development plan maps.

## **3.0 Planning History**

- 3.1. ABP Ref. 313278 refers to an application for the demolition of all existing buildings on site except 307/307a South Circular Road, the construction of 335 no. residential units (7 no. houses, 328 no. apartments), creche and associated site works. No decision has been issued to date.

## **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 units in site are in employment use, the units are liable for/ pay their commercial rates and consider that the zoning is

incorrect on this site. A request was made for rezoning this site to Z6 – Enterprise and Employment uses.

## **5.0 Determination by the Local Authority**

- 5.1. The Local Authority determined that part of the site was in scope. It was considered that the part occupied/ operated by An Post should be removed from the maps. The rest of the site is zoned for residential use, has access to services, and should remain on the map.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The following points were made in support of the appeal:

- Note that the Planning Authority removed the An Post lands from the Map.
- Under Section 4.1.2 of the appeal, the appellant details each of the eight units on site and whether or not they serve the local community. Six units are occupied and two are vacant. Five of the units serve the local community.
- The use of the occupied units is detailed in the appeal and how these businesses serve the local community.
- The Tenants enjoy statutory rights that restrict the landlord's ability to secure vacant possession. Leases have to run out and further time may be required to secure vacant possession.

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

- No further comment.

## **7.0 Assessment**

- 7.1. The comments raised in the appeal are noted. The appeal is on the basis of how the occupied units serve the local community and secondly issues over how the tenants have legal rights.

- 7.2. The site is suitably zoned for residential development and all necessary services are available. There is no restriction on the potential for the development of this site for residential development. I note that there is a recent application for a residential development on this site, though no decision has been made to date.
- 7.3. The legal issues raised in the appeal are a matter between the landowner and the tenants. I do not have full details on these leases and it not a matter for my consideration.
- 7.4. The uses on site and their connection to the local community are raised as an issue in the appeal. It is not stated that the occupiers of these units only serve the local community and that there is no alternative to their current location. It is accepted that the relocation of these businesses may result in a level of disturbance for customers and staff. I am not aware as to why the lands failed to be rezoned under the review of the Dublin City Development Plan, but the recent application for residential development indicates that the landowner was happy for the removal of the existing occupiers to allow for the redevelopment of the site for residential uses.
- 7.5. I therefore consider that the site, other than that occupied by An Post, 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. The An Post site to remain off the map.

## **9.0 Reasons and Considerations**

- 9.1. The appellant requested that their site be removed from the map due to the fact that the occupied units were involved in trade that served the local community and that the legal rights of the tenants would prevent their removal from the units in the short term.
- 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 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

15<sup>th</sup> June 2023