



An
Bord
Pleanála

Inspector's Report

ABP-316903-23

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

Lands at Former Carey Tool Hire generally bounded by Albert Quay East to the north, Albert Road to the west, Albert Street to the south and Navigation Square to the east, Cork City.

Local Authority

Cork City Council.

Planning Authority Reg. Ref.

CRK-RZLT-47.

Appellant(s)

Progressive Strategic Partner DAC

Inspector

Daire McDevitt.

1.0 Site Location and Description

The lands identified as CRK-RZLT-47 (Parcel ID CCLA00023302) refer to lands at the Former Carey Tool Hire which is generally bounded by Albert Quay East to the north, Albert Road to the west, Albert Street to the south and Navigation Square to the east, Cork City.

2.0 Zoning and other provisions

The relevant plan is the Cork City Development Plan 2022-2028.

The lands are zoned ZO 05 City Centre (Map 1) where residential use is permitted in principle.

Located within an Architectural Conservation Area.

3.0 Planning History

ABP 305779-19 refers to a 2020 grant of permission for a SHD application for 201 BTR apartments/Café/Pub/restaurant. (site boundaries included Carey Tool Hire and the former Sextant Bar)

4.0 Submission to the Local Authority

The appellants made a submission to the local authority seeking to have their land removed from the draft map, requesting that lands be excluded on the basis that the lands are zoned city centre, are not vacant/idle and therefore out of scope.

5.0 Determination by the Local Authority

The local authority determined that:

- The land is included in the Cork City Development Plan 2022-2028, in accordance with section 10(2)(a) of the Act and is further zoned (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use.

- Pursuant to section 653B (c)(ii) of the Act, it is reasonable to consider the land is vacant or idle.

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of appeal are summarised as follows:

- The established use of the premises is principally a workshop/warehouse, primarily trade clients, as well as offices. The premises is not vacant or idle. It has been occupied by licensee since 15 December 2021. The permitted use in the license is office and existing permitted uses. License is for 3 years from 15 December 2021.
- The licensees as the rated occupier of the premises pays commercial rates to CCC.
- On 1 February 2023 a 12 month license was granted to a mechanical & civil engineering firm to occupy and use part of the first floor as an office.
- The Council failed to apply the relevant test under section 653B(c)(II) correctly.

7.0 Assessment

The comments raised in the appeal are noted. The local authority Determination is noted. No local authority report/assessment is on file.

Section 653B of the Taxes Consolidation Act 1997 as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned solely or primarily for residential use, or for a mixture of uses including residential. The lands are Zoned ZO05 City Centre where residential use is permissible and such are considered within scope of section 653B(a)(ii).

Section 653B(c)(ii) sets out land that is referred to in paragraph (a)(ii), unless it is reasonable to consider that the land is vacant or idle. The relevant land in this instance includes building / areas of hard standing. The appellants have submitted that the established use of the premises is principally a workshop/warehouse, primarily trade clients, as well as offices. It is submitted that the premises are not vacant or idle, have been occupied by licensee since 15 December 2021. The permitted use in the license is office and existing permitted uses. License is for 3 years from 15 December 2021. The licensee as the rated occupier of the premises pays commercial rates to Cork City Council. And on 1 February 2023 a 12 month license was granted to a mechanical & civil engineering firm to occupy and use part of the first floor as an office.

Page 12 of the Guidelines set out that 'vacant or idle land' means land which, having regard only to a) development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land. And b) if the development is unauthorised.

Page 12 of the RZLT Guidelines further states "*if the development on the land complies with the first step and is not unauthorised, then it is not in scope and should not be included within the maps. Conversely, if development on the land complies with the first step but is unauthorised, then it is in scope and should be included on the maps*". On the basis of the information submitted the lands fall within the scope of vacant or idle asset out in the legislation.

Based on the information on file I have no evidence that the lands were 'vacant/idle' on the relevant dates or on the day the local authority made its Determination. The local authority has not provided an assessment of the appellant's initial submission on the draft RZLT map and have not justified they consider it vacant/idle.

Having regard to the foregoing I do not consider that the lands identified as CRK-RZLT-47 (Parcel ID CCLA00023302) are in scope of section 653B (c)(ii) and as such do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended and the grounds of appeal relating to this matter should be upheld.

The grounds of appeal have not raised other matters under section 653B of the Taxes Consolidation Act 1997, as amended.

8.0 Conclusion & Recommendation

Having reviewed the documentation on file, submissions and grounds of appeal, I conclude that the lands identified as CRK-RZLT-47 (Parcel ID CCLA00023302) having regard to section 653B(c)(ii) do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. And I recommend that the board set aside the determination of the local authority and direct the local authority to omit the lands identified as CRK-RZLT-47 (Parcel ID CCLA00023302) from the final map.

9.0 Reasons and Considerations

Having regard to the determination by the local authority, the submitted grounds of appeal, the provisions of the section 653B of the Taxes Consolidation Act 1997, as amended, and the advice in section 3.1.2 of the 2022 Guidelines for Planning Authorities on the Residential Zoned Land Tax.

The lands identified as CRK-RZLT-47 (Parcel ID CCLA00023302) having regard to section 653B(c)(ii) do not meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended.

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

Dáire McDevitt

Senior Planning Inspector

14th September 2023