



An  
Bord  
Pleanála

## Inspector's Report ABP-316940-23

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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
<b>Location</b>	32 – 40 Benburb Street, Smithfield, Dublin 7.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	RZLT-000021
<b>Appellant(s)</b>	Benburb Street Property Company Limited
<b>Inspector</b>	Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The subject site, of 0.19 hectares, consists of an irregular shaped site located to the north of Benburb Street, Dublin 7. The site is undeveloped, and hoarding provides a boundary to the front/ southern side of the site.
- 1.2. A hotel is located to the eastern side of the site and apartment with commercial units under are located to the western side. A sports facility and lands associated with the Law Society are located to the north of the site. The Luas Red line passes along Benburb Street with a stop at Museum to the west.

## **2.0 Zoning and Other Provisions**

- 2.1. The site is zoned Z5 – ‘City Centre’ in the Dublin City Development Plan 2022 - 2028. Residential development is permitted on these lands.
- 2.2. The site is located within the Zone of Archaeological Constraint for the Recorded Monument – DU018-020 (Dublin City).

## **3.0 Planning History**

- 3.1. There are no recent relevant valid applications on these lands.
- 3.2. A Section 5 Exemption Certificate was issues in January 2019 and exempted from the need to require permission for the use of these lands for athletics/ sports use, where no charge is made to the public for use of the lands.
- 3.3. ABP Ref. 303914-19 refers to an August 2019 determination that the lands were no longer considered to be a vacant site within the meaning of that Act.

## **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 lands were purchased for the long-term expansion of accommodation required for the Law Society of Ireland over the next 50 years. The lands are not idle/ vacant and are intended to be developed for amenity use associated with the overall use of the Law Society lands. They were in

use as a construction compound at the time of assessment by the Planning Authority.

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

- 5.1. The lands are suitably zoned for residential development, public infrastructure is available to serve the site, and no restrictions were identified that would prevent the development of this site including the presence of archaeology and/ or contaminants on the site.
- 5.2. The Planning Authority considers that the site is vacant/ idle with no trade or profession being undertaken here.

## **6.0 The Appeal**

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

The following points were made in support of the appeal:

- Serious reservations about the application of this tax measure and queries if it will achieve the intention of increased residential development.
- The lands are not vacant or idle. A section 5 declaration has been received in relation to the use of the lands for recreation purposes.
- The lands were in use most recently as a construction compound for the development of the adjacent hotel. This hotel is complete and site clearance is underway.

Supporting documents, plans and aerial photographs have been provided.

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

- No further comment.

## 7.0 **Assessment**

- 7.1. The comments raised in the appeal are noted. The Z5 zoning allows for residential development and there are no known restrictions on the availability of provision of services to this site.
- 7.2. The land can be considered to be vacant/ idle. The Section 5 certificate of exemption is an opinion on a planning matter and is not a right to develop lands for a particular use as is the case with a planning permission. There is no known development on site and the considerations for inclusion on the RZLT maps are different to those for removal from the Vacant Site Levy.

## 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 due to the fact that these lands were not vacant/ idle.
- 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 lands are not developed for any residential or for use associated with a business that provides services to the local residential population. The lands are accessible and there is no reason why they cannot be developed in accordance with the zoning objective – Z5 that applies to this site.

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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Paul O'Brien  
Planning Inspector

6<sup>th</sup> July 2023