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Bord  
Pleanála

## Inspector's Report ABP-316981-23

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**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**

Former Cross Guns Flour Mill and Bakery, 113 Phibsborough Road, Dublin 7

**Planning Authority**

Dublin City Council

**Planning Authority Reg. Ref.**

RZLT-000095

**Appellant(s)**

Bindford Limited

**Inspector**

Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The subject site consists of an irregular shaped area of land located to the south of the Royal Canal in Dublin 7 and which provides access to the former Cross Guns Flour Mill and Bakery. Part of the lands have been developed for residential uses and the former bakery has been converted into apartments. The site is located on the western side of the Phibsborough Road.
- 1.2. The canal is to the north of the site and beyond this are railway lines, which are partially in a tunnel. To the south is an established residential area of two-storey terraced houses.

## **2.0 Zoning and Other Provisions**

- 2.1. The subject site, northern section of the site, is zoned Z1 – ‘Sustainable Residential Neighbourhood’ in the Dublin City Development Plan 2022 - 2028. Residential development is permitted on these lands.
- 2.2. The former flour mills is listed on the Record of Protected Structures – RPS no. 6732 refers.

## **3.0 Planning History**

- 3.1. **PA Ref. LRD6025/23-S2** refers to an application for the demolition of existing buildings on site and the construction of a mixed Build to Rent Scheme of 189 apartments in three blocks ranging in height up to 12 storeys. No decision has been issued to date.
- 3.2. **ABP Ref. 309345-21** refers to a May 2021 decision to grant permission for a SHD development of 205 no. Build to Rent apartments and associated site works. This decision is currently subject to Judicial Review proceedings.

## **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 land is not vacant or idle, it is not serviceable, issue of contamination of the lands, necessary for public infrastructure,

restrictions due to the protected structure nature of the North City Flour Mills, also subject to other designations that apply in the area, site is proposed for residential uses and is subject to judicial review proceedings.

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

- 5.1. The Local Authority determined that the lands met the criteria for inclusion on the maps as the lands are zoned for residential use, are located in an established urban area and where services can be expected to be provided. There are no known archaeological remains or contaminants on site that would prevent development on site.
- 5.2. The Conservation Department have confirmed that the Cross Guns Flour Mill is not a protected structure, but the former North City Flour Mill building is. The protected structure status and do not prevent the development of residential units on this site. The Transportation Planning Department report no concerns about the ability to provide for a suitable access to the site.
- 5.3. Contaminated soils through potential presence of asbestos, do not prevent development and Uisce Éireann have reported that the site can be suitably serviced by water and foul drainage. Transport Infrastructure Ireland have no specific comments to make on this issue.
- 5.4. Part of the lands may be required for temporarily to facilitate the development of the proposed Metrolink. An area of lands is proposed for exclusion to allow for the development of the Metrolink.
- 5.5. The remaining lands to be retained on the maps.

## **6.0 The Appeal**

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

The following points were made in support of the appeal:

- The lands are not vacant/ idle and are required for property development and should remain of the maps until no longer required for this purpose.

- The land has issues in relation to the provision of services to facilitate the development of these lands.
- Contamination of the lands and archaeological remains prevent the development of this site.
- The land is required for existing infrastructure – ESB substation on site and for future temporary uses related to the Metrolink project.
- The mill is listed on the record of protected structures and the canal is also subject to a designation.
- The site is proposed for residential use.
- There is a planning application on site, through the SHD process, which cannot be implemented at present as it is under the Judicial Review process.

## **6.2. Planning Authority Response**

- No further comment.

## **7.0 Assessment**

- 7.1. The comments raised in the appeal are noted. The zoning allows for residential development and there are no known restrictions on the availability of provision of services to this site. Any contamination on the site can be removed or remediated to allow for development.
- 7.2. I note the long list of reasons that the appellant considers that the site should not be liable for the RZLT, however I agree with the determination of the Planning Authority and other than the identified lands necessary for the Metrolink, all other lands to be retained on the maps.
- 7.3. The presence of an ESB substation does not restrict the development potential of these lands. The history of planning applications indicates that the applicant/ appellant considers that the lands can be developed. The designation of a structure as a protected structure or the designation of the Royal Canal, don not restrict on the development potential of this site.

- 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.

## **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 restricted in terms of contamination, access/ services, designations and utility restrictions.
- 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 accessible and there is no reason why they cannot be developed in accordance with the zoning objective – Z1 that applies to this site. The entirety of the lands to remain on the maps except for the section deemed by the Planning Authority as appropriate to exclude from the maps in order to facilitate the development of the Metrolink project.

I confirm that the report represents my professional 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

4<sup>th</sup> July 2023