



An
Bord
Pleanála

Inspector's Report ABP-316993-23

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 Map
Location	9 Prussia Street, Stoneybatter, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	RZLT-000001
Appellant(s)	Kevin Cronin and Pearse Sutton
Inspector	John Duffy

1.0 Site Location and Description

- 1.1. The subject site located on the eastern side of Prussia Street contains a large and predominantly two storey office building, accommodating an established engineering consultancy, which is set back from adjoining buildings and the principal building line of the street. The site extends from Prussia Street to the boundary with TU Grangegorman Campus located to the east of the lands. The site also adjoins Fingal Place to the southeast, where vehicular access to the rear yard associated with the office building is available.

2.0 Zoning and Other Provisions

- 2.1. The subject site is subject to two land use zoning objectives in the Dublin City Development Plan 2022-2028, as follows: (i) Z1 – Sustainable Residential Neighbourhoods which seeks to protect, provide and improve residential amenities and (ii) Z2 – Residential Neighbourhoods (Conservation Area) which seeks to protect and/or improve the amenities of residential conservation areas.
- 2.2. The site is located within the Strategic Development and Regeneration Area (SDRA) 8 (Grangegorman / Broadstone).
- 2.3. The site is located within area RMP DU018-020 Historic City. Having regard to the brownfield nature of the lands and its planning history, it is considered the site is not affected by issues to a sufficient extent which would preclude the provision of houses, including contamination or the presence of known archaeological or historic remains.
- 2.4. The site is not located within an Architectural Conservation Area (ACA).

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 the office building is not vacant or idle,

that the property is a commercial premises liable for commercial rates and that as such the property satisfies the criteria for exclusion from the RZLT.

5.0 Determination by the Local Authority

5.1. The Local Authority determined that the site was in scope. The brownfield site is zoned for residential development, has access, or can be connected to public infrastructure and facilities as evidenced by its location in the inner city. Furthermore, the lands do not qualify for an exemption under section 653B (c) (i) of the Taxes Consolidation Act 1997, as amended, on the basis that the use on the lands is unauthorised and it is reasonable to consider that the existing office use does not provide services to residents of adjacent residential areas.

6.0 The Appeal

6.1. Grounds of Appeal

The following points were made in support of the appeal:

- The land is not vacant or idle as defined in the legislation.
- The site accommodates a premises in which a trade or profession is being carried out, which is liable for commercial rates.
- The building is occupied by sitting tenants who have rights to a tenancy in the future, to which the owners are tied to, and as such the subject land cannot be activated for housing development.
- The subject site does not satisfy section 653B (c) on the basis that it contains a building occupied by tenants since 1998 who are entitled to a new lease under business equity rules, which is outside of the owner's control. As such, the physical condition of the site precludes it from being developed for dwellings; it is out of scope and should be removed from the map.
- The tenants have become an integral part of the local community over the last 25 years and provide employment, internships and support to the local community. Employees also support businesses in the locality.

- It is accepted that the site is suitably zoned for residential development as required by section 653(B) (a) of the Taxes Consolidation Act 1997, as amended.
- It is accepted that the site has access and can be connected to public infrastructure and facilities, as required by section 653(B) (b) given its location in the inner city.
- In 2008 planning permission was granted by Dublin City Council for construction of a security wall and entrance along Fingal Place to facilitate access to the rear of property at 10, 11 and 13 Prussia Street. The planning status of the use of the premises was not raised by Dublin City Council at that time and it is conflicting that the Local Authority now considers the use of the land to be unauthorised.

6.2. Planning Authority Response

- No response on file.

7.0 Assessment

- 7.1. The comments raised in the appeal submission are noted. The site identified for inclusion on the RZLT map is zoned for residential use and the Planning Authority determined that the site remain on the RZLT map.
- 7.2. The site is within the inner city with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.
- 7.3. The Taxes Consolidation Act 1997 as amended by the Finance Act 2021, includes in section 653B the criteria for inclusion in the map. This states that it is applicable to lands zoned '(a) (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use' but not land '(c) (ii) that is referred to in paragraph (a)(ii) unless it is reasonable to consider that the land is vacant or idle.' The land is zoned primarily for residential use, and not for mixed use, and therefore the exemption under part (c)(ii) does not apply.
- 7.4. Section 653B (c) relates to land where it is reasonable to consider is not affected, by reason of its physical condition, by matters to a sufficient degree, which would

preclude the provision of dwellings, including contamination or the presence of known archaeological or historic remains. The appellant contends that because the site contains a building occupied by tenants, the physical condition of the site precludes it from being developed for dwellings and as such it should be removed from the map. I am of the view that the issue concerning the tenancy of the property does not fall within the parameters of section 653B (c) or any of the legislative provisions relating to the RZLT process and as such cannot be considered in the appeal process. I consider that the site does satisfy the criteria for inclusion on the map set out in section 653B (c) of the Taxes Consolidation Act 1997, as amended.

7.5. While the business is liable for commercial rates, I am not convinced that it provides services to residents of adjacent residential areas. I do accept that linkages with the local community are likely to have developed over time.

7.6. From a review of the planning history of the site, the Local Planning Authority has indicated that the current office use on the site is unauthorised. While I note the appellant's comments in this regard, having regard to the foregoing, it is apparent that the site does not qualify for an exemption under section 653B (c) (i) of the Taxes Consolidation Act 1997, as amended.

7.7. 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 on the basis that the lands are not vacant or idle, the site is liable for commercial rates and accommodates a trade or profession, the premises is occupied by tenants who have a right to tenancy in the future, the physical condition of the site precludes it from being developed for dwellings, and the business provides support, internships and employment to the local community.

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 criteria 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 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.

John Duffy
Planning Inspector

28th August 2023