



An  
Bord  
Pleanála

## Inspector's Report ABP-316997-23

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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**

Convent Avenue, Fairview, Dublin 3

**Planning Authority**

Dublin City Council

**Planning Authority Reg. Ref.**

RZLT-000109

**Appellant(s)**

Kilcarne Estates Ltd.

**Inspector**

Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The subject site forms a rectangle of land located to the north eastern side of Richmond Lodge, Dublin 3, towards the north of the city centre. On site is a warehouse/ commercial unit and a small car parking area located to the north western side of the site with access onto Convent Avenue. Palisade fencing forms the front boundary with Convent Avenue.
- 1.2. A similar use is located on the opposite/ north western side of the street and they form part of the same business. The surrounding area primarily consists of residential development, however the lands to the north/ north east form amenity lands associated with a religious order and the lands to the rear/ east consist of partially constructed buildings that appear to have been abandoned.

## **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. There are no protected structures, national monuments or any other item indicated on the development plan maps that directly impact on this site.

## **3.0 Planning History**

- 3.1. PA Ref. 3143/22 refers to a decision to refuse permission for a residential development of two number six storey apartment blocks providing for a total of 18 student accommodation units with a total of 120 bed spaces. This proposal refers to the subject site and following an appeal to An Bord Pleanála, the application was withdrawn.

## **4.0 Submission to the Local Authority**

- 4.1. The appellant made a submission to the Local Authority seeking to have its lands removed from the draft map on the basis that:
  - A business is in operation on this site.
  - Commercial rates are being paid.

- The business provides services to residents in the surrounding area.
- The use of the site is not unauthorised development.

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

- 5.1. The Local Authority determined that the site was in scope and should remain on the map. The land is suitably zoned for residential development, it is considered that the site can be fully serviced. The land is not constrained by its physical condition that would preclude the development of housing, the site is not contaminated and there is no known archaeological/ historic remains here, it is within the area of an RMP, but this does not preclude development.
- 5.2. The business in operation – Pete’s Antiques, does not have the benefit of planning permission and it is considered that the business does not provide services to residents of adjacent areas.
- 5.3. The existing use of the site does not allow for its exclusion as set out in Section 653B(c) of the Finance Act 2021.

## **6.0 The Appeal**

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

- The lands are not a brownfield site and have been in operation since 1978.
- It is not a derelict site, and the building occupies about 95% of the site area.
- There is no unauthorised development in operation here. Several trades are in operation and commercial rates are paid.
- The business provides services to the residents of adjacent areas.

## **7.0 Assessment**

- 7.1. The unit/ site is occupied by different businesses, and it is stated that they provide a service to residents of the area.

- 7.2. The site can be serviced by road and water services and is located within an established urban area. The site can be accessed by the existing road network that is in place.
- 7.3. I note the case made in the appeal and references to this not being a brownfield site etc. I accept that there is business operating from this premises, but it is possible that the site can be developed in accordance with the zoning objective that applies to this site, Z1 for residential development. Insufficient information has been provided to demonstrate to what extent the unit/ site serves the adjacent residential population.
- 7.4. I therefore consider that the site should remain on the map in accordance with the recommendation of the Planning Authority.

## **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 its current use as a premises and which serves the local residential population. The site is located within an existing established urban area and there suitable services including water/ foul drainage and existing roads and footpaths to facilitate the development of these lands.
- 9.2. The subject lands 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.

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Paul O'Brien  
Planning Inspector

22<sup>nd</sup> June 2023