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Pleanála

## Inspector's Report ABP-317778-23

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<b>Type of Appeal</b>	Appeal under section 653J(2) of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the Residential Zoned Land Tax Map
<b>Location</b>	City Quay, Gloucester Street South and Moss Street, Dublin 2
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	RZLT-000179
<b>Appellant(s)</b>	Ventaway Limited
<b>Inspector</b>	John Duffy

## 1.0 Site Location and Description

- 1.1. The subject brownfield lands are bounded by City Quay to the north, Moss Street to the west, Gloucester Street South to the south and City Quay National School to the east. The perimeter of the site comprises largely of hoarding and the facades of old buildings along Moss Street and Gloucester Street South. The site which contains a large area of hard standing is operated as a car park by Park Rite with car parking facilities offered Monday to Saturday.

## 2.0 Zoning and Other Provisions

- 2.1. The subject site is within Zone Z5 – ‘City Centre’ in the Dublin City Development Plan 2022-2028. This zoning objective seeks to ‘consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.’ The lands are therefore zoned for a mixture of uses including residential use.
- 2.2. The site adjoins the zone of archaeological potential for Recorded Monument DU018-020 Historic City. City Quay, a Recorded Monument (DU018-020479) is located within 20 metres of the subject lands. The northern portion of the site is located within the River Liffey Conservation Area. Having regard to the brownfield nature of the lands and its planning history, I consider 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.

## 3.0 Planning History

### 3.1. Subject site and adjoining lands to the north-west

PL29S.315053 / PA Ref. 4674/22 – Current planning appeal for demolition of buildings, construction of 24 storey mixed use building with all ancillary site works.

PA Ref. 4065/21 – Application refused permission for demolition of 3 storey building and single storey structure and their foundations, demolition of boundary walls, foundations and entrance archway, hoarding, all associated works.

## Corner of Moss Street and Gloucester Street South

PA Ref. 3255/01 – Permission granted for 4 storey plus penthouse over basement, atrium office building, café retail unit and 18 no. car parking spaces at basement level. This permission was not implemented.

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

4.1. The appellant made a submission to the Local Authority seeking to have the lands removed from the RZLT map on the basis that there is a trade being carried out on the land in terms of its long-standing and established use for car parking. As such the site does not satisfy the criteria for inclusion given that criteria under subsection (c) (ii) is not met. The submission also requested the site be rezoned from Z5-City Centre to Z6-Enterprise/Employment.

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

5.1. The Local Authority determined that the site is in scope. The lands are zoned for a mixture of uses, including residential use. They have access or can be connected to public infrastructure and facilities with sufficient service capacity as evidenced by their city centre location and planning history. The lands are vacant / idle as the site has been cleared; there is currently no active permitted use on the lands and they are not required for, or integral to the operation of a trade or profession being carried out on, or adjacent to the land. Other qualifying criteria under section 653B are met.

### **6.0 The Appeal**

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

The appellant's submission to the Local Authority is appended to the appeal.

The following points are made in support of the appeal:

- The site does not fulfil criteria referred to in section 653B (c) (ii) as the land is currently in use as a car park and is not vacant or idle.
- The car parking use on the land is established for more than 20 years and it is authorised development. In this context reference is made to PA Ref. 3255/01 for

the development of an office building which also included 18 no. car parking spaces.

- A trade is being carried out on the land related to its use for car parking.

## 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 a mixture of uses, including residential use and the Planning Authority determined that the site remain on the RZLT map. The site is within the city centre with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.

7.2. Page 12 of the RZLT Guidelines set out that 'vacant or idle land' means land which, having regard only to 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.

Section 3.1.2 of the RZLT Guidelines relates to exclusions of particular lands from the map. In terms of determining whether lands are vacant or idle the Guidelines state the following:

*Setting out the text in the legislation 'vacant or idle land' means land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised 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; the first step is to determine if the development on the land is required for or integral to a trade or profession being carried out on the land or adjacent to the land. The second step is to determine if the development is unauthorised.*

*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 development, then it is in scope and should be included on the maps. Section 2 of the Planning and Development Act 2000 regarding 'unauthorised development' must clearly inform assessment in this regard. Aside from uses commenced before 1 October 1964, or exempted development (within the meaning of section 4 of the Act of 2000) the development of the land must be authorised.*

7.3. The appellant has submitted no evidence which confirms the existing commercial car parking use on the lands has the benefit of planning permission. While reference is made to a grant of permission (PA Ref. 3255/01 refers) for an office block and 18 no. car parking spaces (which related to part of the site only) this previous application did not relate to the provision of a commercial car park at this location. Having regard to the above I consider that the existing car park use on the lands is not authorised and my opinion is that it is reasonable to consider the land vacant or idle as referenced in section 653B (c)(ii) of the Taxes Consolidation Act 1997 as amended.

7.4. I therefore consider that the land should remain for inclusion on the Residential Land Tax Map given the site is zoned for a mixture of uses including residential development, that it is vacant or idle and that it does not fall within the exemptions as set out under section 653B (c) (i) – (v) of the Taxes Consolidation Act 1997, as amended.

## **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 supplementary map on the basis that the lands are not vacant or idle, they are in use as a car park with reference made to a previous planning permission.

9.2. The site is within the city centre 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.

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John Duffy  
Planning Inspector

17<sup>th</sup> October 2023