



An
Bord
Pleanála

Inspector's Report ABP-317926-23

Type of Appeal

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

Location

Land fronting on to Fingal Place to rear of 9-10 Prussia Street, Dublin 7

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000168

Appellant(s)

Kevin Cronin and Pearse Sutton

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The subject brownfield site is located to the rear of Nos. 9 and 10 Prussia Street, on the eastern side of the street. Nos. 9 and 10 Prussia Street accommodates a predominantly two storey office building, used as an established engineering consultancy. The subject site to the rear of the office premises, comprises a hard-standing area used for car parking and as a service area and facilitates vehicular access, all in connection with the adjoining office use. The site is accessed from Fingal Place, with both a pedestrian gate and vehicular entrance located at the north-eastern side of the site. The site adjoins the boundary with TU Grangegorman Campus located to the north.

2.0 Zoning and Other Provisions

- 2.1. The subject site is within Zone Z1 – ‘Sustainable Residential Neighbourhoods’ in the Dublin City Development Plan 2022-2028. This zoning objective seeks to protect, provide and improve residential amenities.
- 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, 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

Adjoining lands

- 3.1. VY29N.316993: Draft RZLT map appeal in respect of inclusion of lands at 9-10 Prussia Street, Dublin 7. Decision made to confirm the determination of the Local Authority.
- 3.2. VY29N.316971: Draft RZLT map appeal in respect of inclusion of lands to the rear of 11b-13a Rear Prussia Street, Dublin 7. No decision made at time of writing.

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 RZLT map on the basis that, inter alia, the site is not vacant or idle, that it is part of a premises in which a trade or profession is being carried out and which is liable for commercial rates. As such the site should therefore be excluded under section 653B of the legislation.

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 and the current and historic use of the land. 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 are made in support of the appeal:

- The land is not vacant or idle and forms an integral part of a hard surfaced area used as car parking and storage serving the offices.
- The site forms part of a premises in which a trade or profession is being carried out, which is liable for commercial rates. As such the site should be exempted from RZLT.
- The site 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 forms an integral part of a hard-standing area used for car-parking / storage for tenants

who are entitled to a new lease under business equity rules, which is outside of the owner's control. Furthermore, there is an established right of way over the land for vehicles and pedestrians between Fingal Place and the premises at the rear of 10,11 and 13 Prussia Street. 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 locality. Employees also support businesses in the area.
- 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. 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 forms part of a premises which is occupied by tenants and that there is an

established right of way across the land, 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 and the right of way issue 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.

7.4. 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.

7.5. 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.

7.6. 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 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 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

17th October 2023