



An
Bord
Pleanála

Inspector's Report ABP-317929-23

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

Independent House (Protected Structure), 87-93 Middle Abbey Street, Dublin 1

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000192

Appellant(s)

Primark Limited

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The site comprises Independent House, a 5-storey building fronting onto Middle Abbey Street, Dublin 1. The building was the former headquarters of Independent Newspapers. It is bounded to the west by William's Lane and to the north by Prince's Street North. The property comprises two Protected Structures.

2.0 Zoning and Other Provisions

- 2.1. The subject site is zoned 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. Having regard to the brownfield nature of the land, its location in the inner-city and its planning history, it is considered that the site is not affected by issues to a sufficient extent which would preclude the provision of development including the presence of known archaeological or historic remains.
- 2.3. The property comprises two Protected Structures as follows:
- RPS No. 18: 87-90 Abbey Street Middle, Dublin 1: Independent House including roof and roof pavilions.
 - RPS No. 8797: 91-92 Abbey Street Middle, Dublin 1: Independent House. (The correct address is 91-93 Abbey, Street Middle, Dublin 1).

3.0 Planning and Enforcement History

PA Ref. C0006/23: Endangered Building File opened by Local Authority in March 2023 with regard to the Protected Structure at Independent House, 87-90 Middle Abbey Street, Dublin 1.

ABP-301832-18 / VS/1005: Appeal relating to the inclusion of Independent House, (87-90 Middle Abbey Street, Dublin 1) on the Vacant Site Register. In 2018 the decision was made to cancel the entry on the Register.

Details of previous planning applications relating to the site are listed in the Local Authority's report.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have the land removed from the supplemental map on the basis that the Protected Structure status of the building along with Development Plan policies militates against its demolition/conversion to residential use. The physical condition of the building, contamination on site and the risk of flooding all impact on the ability to provide residential development at this location.

5.0 Determination by the Local Authority

- 5.1. The Local Authority determined that the site was in scope. The site is zoned for a mixture of uses, including residential use, has access, or can be connected to public infrastructure and facilities as evidenced by its city centre location and planning history. The lands are vacant / idle, as there is currently no active permitted use on the lands. The lands are not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to the land. Furthermore, the lands meet

the other qualifying criteria under section 653B of the Taxes Consolidation Act 1997, as amended.

6.0 The Appeal

6.1. Grounds of Appeal

Along with the appeal, the appellant has included a copy of their submission made to the Local Authority in connection with the inclusion of Independent House on the supplemental map. The following points are made in support of the appeal:

- The status of Independent House on the Local Authority's Record of Protected Structures militates against its demolition/conversion to facilitate residential use.
- The provision of residential units would have profound, permanent and irreversible impacts on protected structures. The required level of structural intervention required would conflict with policies and objectives to protect the city's built heritage.
- Independent House would have to be entirely reconfigured to provide appropriately sized apartment units in compliance with the Apartment Guidelines. A residential scheme here would likely comprise entirely of single aspect units which would not comply with Specific Planning Policy Requirement 4 (SPPR4) of the Apartment Guidelines or proper planning. There is no evidence that the Planning Authority or the Conservation Section considered or assessed the implications for conversion to residential use.
- The buildings are in poor condition. The basement is prone to flooding. Asbestos containing materials are in roofs, walls and floors throughout the premises. Areas of the building are likely to be contaminated on account of daily printing operations and use of chemicals, lubricants and oils in the printing process.
- Not every land parcel zoned Z5-City Centre is capable of being developed for housing. Independent House is not suitable for residential development. Residential development may not accord with the proper planning and sustainable development of the area.

- The Local Authority's retail policy does not support residential uses at ground floor level on the frontage of Abbey Street Middle or Princes Street North.
- The Local Authority did not have adequate regard to the objective considerations pertaining to the condition of Independent House which may impact the ability to provide housing on the land.

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. 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.
- 7.2. It is clear that the lands are not in active use and are vacant or idle. As such the site cannot avail of the exemption under section 653B (c) (ii) of the Taxes Consolidation Act 1997 as amended.
- 7.3. The appellant has indicated the basement of the building is prone to flooding. I note the building is outside of the estimated flood extents for both Tidal and Fluvial Flood Zones A and B. The Local Authority's evaluation notes the Flood Defence Projects Office has indicated some estimated pluvial flooding in the north-east corner for the adjoining laneway for the 100 year flood event. My view is that this would not prevent the development of the site for residential purposes. The issue of flooding can be addressed as part of the development management process.
- 7.4. The appellant's submission indicates that the site is contaminated arising from its former use and also that asbestos containing materials are located throughout the buildings. 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 land in need of specific remediation for contamination and land which has significant known archaeological remains. Section 3.1.2 of the RZLT Guidelines provides guidance in terms of exclusions of lands as set out in the legislation, including lands referred to in section 653B (c).

Specifically, page 9 of the RZLT Guidelines states “*Lands which are unable to be developed due to the need for significant remediation are to be excluded from the scope of the measure.....Where lands are not identified as an EPA Licensed Site, any submission to the local authority requesting exclusion from the draft or supplemental map on this basis should submit verifiable evidence in the form of a preliminary site assessment report setting out the level of contamination on the lands, sufficient to enable the local authority to assess whether the land in question should benefit from this exclusion (See section 653B(c) of the legislation).*”

The Waste Regulation and Enforcement Unit of the Local Authority note that sites containing contaminated soil have been developed in the past and that the issue of contamination is generally dealt with as part of the development works. I note that no site assessment report outlining the levels of contamination on the lands has been provided. I agree that this matter should be addressed through the development management process.

- 7.5. The appellant contends that by reason of the building’s Protected Structure status along with specified Development Plan policies and the Apartment Guidelines, redevelopment / conversion of the building to residential use would not be possible. My opinion is that such matters along with design and amenity issues regarding the suitability or otherwise of the building for conversion to residential use do 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.
- 7.6. I note the report of the Conservation Section following the submission received by the Local Planning Authority challenging the inclusion of the site on the supplemental map. It notes the fact that Independent House comprises two protected structures and that this does not preclude it from appropriate use and / or restoration and re-use; nor does it preclude the buildings and lands from adaptation and regeneration for appropriate

uses. I concur with the Local Authority in this regard and as such I consider that the site cannot avail of the exemption under section 653B (c) (iv) 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 a mixture of uses including residential development.

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 of, inter alia, flooding, contamination and that the buildings comprise protected structures which militates against their conversion / demolition to facilitate residential use and that residential development would negatively impact on the protected structures.

9.2. The land 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.

John Duffy
Planning Inspector

17th October 2023