



An
Bord
Pleanála

Inspector's Report ABP-317930-23

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

One Royal Canal House, Royal Canal Park, Dublin 15, D15DKW4

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000176

Appellant(s)

Ballymore

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The subject site comprises a purpose built 5-6 storey office block which is in use as the corporate headquarters of the Ballymore Group at Royal Canal Park, Ashtown, Dublin 15. The site forms part of a large multi-storey development, located at the eastern corner of that development adjacent to Sprindrift Avenue and east of the Ratoath Road.

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 subject site is located within the boundary of the Ashtown-Pelletstown Local Area Plan (LAP) which was adopted on 2nd December 2013, was due to expire at the end of 2019 but has been extended until December 2023. Chapter 4 of the LAP sets out the Development Strategy for the area.
- 2.3. Having regard to the built-up nature of the area 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. There is no recent, relevant or valid planning history relating to the subject site.

4.0 Submission to the Local Authority

- 4.1. The appellant made a submission to the Local Authority seeking to have the lands excluded from the RZLT map on the basis that the property is permitted and in use as the corporate headquarters of the Ballymore Group. The building is not an unauthorised use and does not fall within the scope of section 653B (c) (i) of the legislation.

5.0 Determination by the Local Authority

5.1. The Local Authority determined that the site was in scope. The site is zoned solely or primarily for residential use, has access, or can be connected to public infrastructure and facilities. The lands do not qualify for an exemption under section 653B (c) (i) of the Taxes Consolidation Act 1997, as amended, as it is reasonable to consider the existing office use does not provide services to residents of adjacent residential areas, and the other relevant criteria under section 653B are satisfied.

6.0 The Appeal

6.1. Grounds of Appeal

The following points are made in support of the appeal:

- The subject property which has the benefit of planning permission is in use as the corporate Irish headquarters of Ballymore Properties. It was designed and built as an office block in the context of the Pelletstown Action Area Plan 2000 in which the Planning Authority envisioned the development of a high-density mixed use urban quarter.
- Permissible uses under the Z1 zoning objective include 'office,' therefore the subject property does not constitute a non-conforming use.
- The site is within the boundary of the Ashtown – Pelletstown LAP. Chapter 4 of the LAP sets out the development strategy for the area. The Local Authority's policy has been and continues to be for the area to be developed as a mixed-use area.
- The subject property is affected in terms of its physical condition by matters to a sufficient extent to preclude the provision of dwellings. The property is in active use as an office building; it is not derelict or vacant. The building was purpose designed as an office building and is unsuitable for conversion to residential use. There are no opening windows, there is no private/communal open space and no possibility to provide these amenities. The building has been designed with office use in mind.

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. The site is within a built-up area 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. 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).

The appellant contends that the subject premises by reason of its design and layout would render it unsuitable for conversion to residential use. I am of the view that design and amenity issues along with other matters raised regarding the suitability or otherwise of the premises 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.

- 7.3. In terms of operating uses on residential zoned lands Page 11 of the RZLT Guidelines notes that 'existing uses to be excluded from the scope of mapping for the tax measure must provide a service to the existing or future residential community, must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates.' Having regard to the text of the legislation, in order to be excluded from the scope of the tax, all four components of subsection (c) (i) must be met.

The subject building is used as the corporate headquarters of the Ballymore Group. As such, it is authorised and in use as premises in which a trade or profession is being carried on and commercial rates are payable. However, I do not consider the business provides services to residents of adjacent residential areas. It is therefore apparent that the site does not qualify for an exemption under section 653B (c) (i) of the Taxes Consolidation Act 1997, as amended.

- 7.4. I therefore consider that having regard to the legislation, the site must 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/premises be removed from the supplemental map on the basis that it operates as corporate headquarters and they consider it unsuitable for residential use.
- 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

