



An
Bord
Pleanála

Inspector's Report ABP-320399-24

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 Map

Location

9-10 Prussia Street and land to the rear fronting Fingal Place, Stoneybatter, Dublin 7

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000233

Appellant(s)

Kevin Cronin and Pearse Sutton

Inspector

Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The subject lands are located on the eastern side of Prussia Street and contains a large and predominantly two storey office building, accommodating an established engineering consultancy, which is set back from adjoining buildings and the principal building line of the street. The site extends from Prussia Street to the boundary with TU Grangegorman Campus located to the east of the lands. The site also adjoins Fingal Place to the southeast, where vehicular access to the rear yard associated with the office building is available. The lands comprise two land parcels, DCC000061701 and DCC000063194.

2.0 Zoning and Other Provisions

- 2.1. The subject site is subject to two land use zoning objectives in the Dublin City Development Plan 2022-2028, as follows: (i) Z1 – Sustainable Residential Neighbourhoods which seeks to protect, provide and improve residential amenities and (ii) Z2 – Residential Neighbourhoods (Conservation Area) which seeks to protect and/or improve the amenities of residential conservation areas.
- 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.
- 2.4. The site is not located within an Architectural Conservation Area (ACA).

3.0 Planning History

PA reference number RZLT-000168, in 2023, Dublin City Council determined that the lands at number 9 Prussia Street should be included within the RZLT map. ABP reference 317926-23-, in 2023, the Board confirmed the determination of the Planning Authority and directed the local authority to retain the lands identified as planning reference number RZLT-000168 on the RZLT map.

PA reference number RZLT-000001, in 2023, Dublin City Council determined that the lands at number 9 Prussia Street should be included within the RZLT map. ABP reference 316993-23-, in 2023, the Board confirmed the determination of the

Planning Authority and directed the local authority to retain the lands identified as planning reference number RZLT-000001 on the RZLT map.

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 draft map on the basis that the site is not vacant or idle, that the property comprises a commercial premises in which a trade or profession is being carried out and is liable for commercial rates. The building is occupied by sitting tenants who are entitled to a new lease under the business equity rules. When DCC granted permission for the security wall/gates at the site in 2008, the PA did not question the planning status on the lands. Therefore, the property satisfies the criteria for exclusion from the RZLT.

5.0 Determination by the Local Authority

The local authority determined to include the site on the final RZLT map on the basis that the site constitutes land satisfying the relevant criteria set out in in Section 653B of the Act.

The reasons set out by the Local Authority are as follows:

The brownfield lands:

- a) Are zoned solely or primarily for residential use.
- b) Have access to, or can be connected, to public infrastructure and facilities,
- c) Do not qualify for an exemption under Section 653B c) (i) of the Taxes Consolidation Act 1997, as amended, as 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 area.
- d) Satisfy the other relevant criteria under section 653B of the Taxes Consolidation Act, 1997, as amended.

6.0 The Appeal

Grounds of Appeal

The following points were made in support of the appeal:

- The land is not vacant or idle as defined in the legislation.
- The site accommodates a premises in which a trade or profession is being carried out, which is liable for commercial rates.
- The building 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 contains a building occupied by tenants since 1998 who are entitled to a new lease under business equity rules, which is outside of the owner's control. 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 local community. Employees also support businesses in the locality.
- It is accepted that the site is suitably zoned for residential development as required by section 653(B) (a) of the Taxes Consolidation Act 1997, as amended.
- It is accepted that the site has access and can be connected to public infrastructure and facilities, as required by section 653(B) (b) given its location in the inner city.
- 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. This decision was upheld by an Bord Pleanála. 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.

7.0 Planning Authority Response

The local authority made no comment in relation to this appeal.

8.0 Assessment

8.1 The comments raised in the appeal submission are noted. The Planning Authority determined that the site remain on the RZLT map. The comments raised in the appeal submission are noted. The lands identified for inclusion on the RZLT map are zoned Z1 and Z2 'Sustainable Residential Neighbourhoods' 'Residential Neighbourhoods (Conservation)' in the Dublin City Development Plan 2022-2028. The Planning Authority determined that the site remain on the RZLT map. The Local Authority set out that the site is within an inner-city area with services available and no capacity or other reasons have been identified that would prevent the development of these lands for residential purposes.

8.2 The Taxes Consolidation Act 1997 as amended by the Finance Act 2021, includes in Section 653B the criteria for inclusion in the map. This states that it is applicable to lands zoned '(a) (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use' but not land '(c) (ii) that is referred to in paragraph (a)(ii) unless it is reasonable to consider that the land is vacant or idle.' The land is zoned primarily for residential use, and not for mixed use, and, therefore, an exemption under part (c)(ii) does not apply.

8.3 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 contains an office building occupied by tenants, 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 opinion that the issue concerning the tenancy of the property 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 within this appeal

process. I consider that the site satisfies the criteria for inclusion on the map set out in section 653B of the Taxes Consolidation Act 1997, as amended.

8.4 While the business is liable for commercial rates, it has not been demonstrated that it provides services to residents of adjacent residential areas.

8.5 From a review of the planning history of the site, the Planning Authority has stated that no planning permission exists for the current office use within the building on site. 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.

8.6. Having regard to the brownfield nature of the lands and its planning history, it is considered 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.

8.7 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 there is no reason as to why development cannot take place here.

9.0 Recommendation

I recommend that the board confirm the determination of the Local Authority and that the indicated site be retained on the map.

10.0 Reasons and Considerations

The lands identified as RZ:LT-000223, parcel ID numbers DCC000061701 and DCC000063194. on Z1-Sustainable Residential Neighbourhoods and Z2 Residential Neighbourhood (Conservation) zoned lands identified within the current Dublin City Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997. as amended. The appellants have not demonstrated based on the information submitted that the commercial use within the lands have the benefit of a valid planning permission and are, therefore, considered within the scope of

Section 653B of the Taxes Consolidation Act 1997, as amended. The lands are located 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 in principle for residential purposes in accordance with the Z1 and Z2 zoning objectives that apply to these lands.

11.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended.

Planning Authority: Dublin City Council

Local Authority Reference Number: RZ:LT-000233

Appeal Kevin Cronin and Pearse Sutton in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the final Residential Zoned Land Tax Map by Dublin City Council on the 21st day of June 2024 in respect of the site described below.

Lands at: 9-10 Prussia Street and land to the rear fronting Fingal Place, Stoneybatter, Dublin 7.

Decision

The Board in accordance with Section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

The Board confirms the determination of the local authority and direct the Local Authority to retain the lands identified as Parcel ID numbers DCC000061701 and DCC000063194 and Local Authority reference number RZLT-000233 should remain on the RZLT map.

Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022) which are

considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified as RZ:LT-000223, parcel ID numbers DCC000061701 and DCC000063194. on Z1-Sustainable Residential Neighbourhoods and Z2 Residential Neighbourhood (Conservation) zoned lands identified within the current Dublin City Development Plan are considered in scope of Section 653B of the Taxes Consolidation Act 1997. as amended. The appellants have not demonstrated based on the information submitted that the commercial use within the lands have the benefit of a valid planning permission and are, therefore, considered within the scope of Section 653B of the Taxes Consolidation Act 1997, as amended. The lands are located 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 in principle for residential purposes in accordance with the Z1 and Z2 zoning objectives that apply to these lands.

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.

Fergal Ó Bric
Planning Inspectorate

26th day of September 2024