



An
Bord
Pleanála

Inspector's Report ABP-320440-24

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

City Quay, Gloucester Street South and Moss Street, Dublin 2

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

RZLT-000211

Appellant(s)

Ventaway Limited

Inspector

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.
- 1.2. The lands comprise two land parcels. Parcel ID DCCC000064162 contains a large area of hardstanding used as a car park operated by Park Rite with car parking available Monday to Saturday. Parcel ID DCC000064115 accommodates a disused three storey prominent corner building in poor condition which is boarded up and has frontage onto City Quay and Moss Street.

2.0 Zoning and Other Provisions

- 2.1. The subject lands are 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 lands adjoin 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 lands are located within the River Liffey Conservation Area.

3.0 Planning History

3.1. RZLT Appeal (Part of subject lands)

An Bord Pleanála Reference ABP-317778-24 / Planning Authority Reference RZLT - 000179 refers to an October 2023 decision relating to the area occupied as a car park on the subject lands. The decision confirmed that the subject lands meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended, and therefore the subject lands are to be included on the RZLT map.

3.2. Subject lands

ABP Ref. PL29S.315053 / PA Ref. 4674/22 – Permission refused in May 2024 for demolition of buildings, construction of 24 storey mixed use building with all ancillary site works.

PA Ref. 4065/21 – Permission refused in February 2022 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 in 2002 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 the lands do not comply with criteria (c)(ii) as there is a trade being carried out on the lands 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 lands are in scope because they:
- Are zoned for a mixture of uses, including residential use,
 - Have access, or can be connected, to public infrastructure and facilities, with sufficient service capacity, as evidenced by their City Centre location and past planning permissions on the land,
 - Are vacant / idle: the three storey corner building is considered vacant and the lands to the rear have been cleared; there is currently no active permitted use on the lands; and, 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,

- Meet the other qualifying criteria in Section 653B of the Taxes Consolidation Act as amended.

6.0 The Appeal

6.1. Grounds of Appeal

The following points are made in support of the appeal:

- It is considered that the lands do not meet the relevant criteria set out under Section 653B(a)(ii) and (c)(ii) of the legislation.
- Disputes that the lands are vacant or idle. There is a trade being carried out on the lands; they are used for car parking and the lands have not been cleared.
- 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.
- It is considered that the lands warrant rezoning to 'Z6 – Employment / Enterprise' on the basis they benefit from proximity to significant public transport interchanges and employment uses.

The appeal included the following attachments:

- Appendix 1: OS map
- Appendix 2: Ownership details
- Appendix B: Determination by Local Authority
- Appendix C: Acknowledgement of submission

7.0 Assessment

7.1 The grounds of appeal have been fully considered. Under section 653J of the Taxes Consolidation Act 1997 as amended, the Board's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. This position is consistent with the Residential Zoned Land Tax-Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that:

“in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in article 28 of the 2001 regulations. In assessing any appeal, the Board is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only”.

7.2 Section 653B of the Taxes Consolidation Act, as amended, sets out the criteria for inclusion in the map, and states that the first consideration for inclusion in the map is land which in subsection (a) 'is included in a development plan' or 'local area plan' zoned solely or primarily for residential use, or for a mixture of uses including residential. The subject lands zoned 'Zone Z5 – 'City Centre' within which residential use is permissible and are therefore within scope of section 653B(a)(ii).

7.3 Having regard to section 653B(b), these brownfield lands are within the city centre and it is apparent that they have access to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity for such development.

7.4 Having regard to the brownfield nature of the lands and its planning history, I consider the lands are 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.

7.5 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.

In relation to Land Parcel ID DCCC000064162, the appellant states that the land is used as a car park and has been used for this use for in excess 20 years, and therefore the land is not vacant or idle. While reference is made to a grant of permission (PA Ref. 3255/01 refers) for an office block and 18 no. car parking spaces, this permission did not relate to provision of a commercial car park at this location and this permission was not implemented. Therefore, I consider that the existing car park use on the lands does not appear to have the benefit of a grant of planning permission and my view is that it is reasonable to consider this land parcel as vacant or idle as referred to in section 653B (c)(ii) of the Taxes Consolidation Act 1997, as amended.

In relation to Land Parcel ID DCC000064115 which accommodates a disused three storey corner building in poor condition; no evidence is provided by the appellant that it is in use. In this regard, the appeal relates only to the car parking use on the adjoining land parcel. As referenced above, the building is boarded up and generally in a poor state of repair, with broken windows and it is defaced by graffiti on its front and side elevations. As such, it is clear that the building is vacant or idle as referred to in section 653B (c)(ii) of the Taxes Consolidation Act 1997, as amended, and therefore is not excluded under section 653B.

7.6 While noting the appellant's view as expressed in the appeal that the land parcels warrant rezoning to Z5 – 'Employment / Enterprise,' this is not a matter for consideration by the board given that it does not fall within section 653B of the Taxes Consolidation Act 1997, as amended.

7.7. Having regard to the foregoing I consider that Parcel IDs DCCC000064162 and DCC000064115 should remain for inclusion on the final RZLT Map given the site is zoned for a mixture of uses including residential development, that they are vacant or idle and that they do 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 consider that the lands identified as Parcel IDs DCCC000064162 and DCC000064115 meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. There are no matters arising that warrant exclusion of the subject lands from the final map and, therefore, I recommend that the Local Authority determination be confirmed and the lands retained on the map.

9.0 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 Parcel IDs DCCC000064162 and DCC000064115 on the RZLT Final Map zoned 'City Centre' are considered to be within scope of

Section 653B(a). The lands are considered to be vacant or idle within the meaning of section 653B(c)(ii). The lands, located within Dublin city centre have access to public infrastructure and facilities necessary for dwellings to be developed. 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 Z5 'City Centre' zoning objective that applies to these lands.

10.0 Recommended Draft Board Order

Taxes Consolidation Act 1997 as amended

Planning Authority: Dublin City Council

Local Authority Reference Number: RZLT-000211

Appeal by Ventaway Limited in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the Residential Zoned Land Tax Map by Dublin City Council on the 17th day of June 2024 in respect of the site described below.

Lands at: City Quay, Gloucester Street South and Moss Street, Dublin 2

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 confirm the determination of the local authority and direct the local authority to retain the lands identified as Parcel IDs DCCC000064162 and DCC000064115 on the final 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 Parcel IDs DCCC000064162 and DCC000064115 on the RZLT Final Map zoned 'City Centre' are considered to be within scope of Section 653B(a). The lands are considered to be vacant or idle within the meaning of section 653B(c)(ii). The lands, located within Dublin city centre have access to public infrastructure and facilities necessary for dwellings to be developed. 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 Z5 'City Centre' zoning objective that applies 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.

John Duffy
Planning Inspector

26th September 2024