An Coimisiún Pleanála

**Commission Order**
**ACP-324502-26**

**Taxes Consolidation Act 1997, as amended**

**Planning Authority: Dún Laoghaire-Rathdown County Council**

**Planning Register Reference Number: DM26-005**

**Appeal** by Evara Limited in accordance with section 653J of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on the map of the Residential Zoned Land Tax by Dún Laoghaire-Rathdown County Council on the 23rd day of June 2026 in respect of the site described below.

**Site Location:** Lands at Cabinteely Village, North of Loughlinstown and west of Ballybrack.

## Decision

**The Commission, in accordance with section 653J of the Taxes Consolidation Act 1997, as amended, and based on the reasons and considerations set out below, hereby decides to SET ASIDE the determination of the planning authority and allow the appeal.**

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## Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax- Guidelines for Planning Authority 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 L1 and L2 -Growth Area 2 – Development Area 1 (Parcel ID DELA00000039) and T1-Growth Area 3 -Development Areas 8 (Parcel ID DELA00000015) within Cherrywood SDZ on lands zoned Village Centre (T1) and Residential are considered in scope of section 653B(a)(i) and (ii).

However, neither the Planning Authority nor the DAPT have confirmed if the road network accessing the site has been taken in charge and it is unclear from the documentation on file ownership of the road network accessing the site and any necessary 3rd party consent that maybe required to utilise the road network. There is uncertainty in this regard. On the basis of the documentation on file, I am not satisfied that the landbanks are 'connected' or 'able to connect' to the road network.

The Land Parcel DELA00000039 (L1/L2) is constrained by an interim surface water management solution located within the appeal lands - Land Parcel DELA00000039, in lieu of permanent Surface Water Attenuation Pond 2A. The other site (Land Parcel DELA00000039 (T1)) also utilises the same interim surface water management arrangement pending the completion of Pond 2A. As per Section 653B (b) the test is whether it is reasonable to consider the site may have access, or be connected, to public infrastructure and facilities, including, in this instance, surface water drainage. Planning permission (Part 8 -PC/CSDZ/005/2021) for the pond was secured in 2021. However Detailed Design completion and Tender for works to issue are ongoing. Therefore, on the assessment date of the 1st of January 2026, it is reasonable to consider the subject Land Parcels (DELA00000039 and DELA00000015) did not have access, or be connected, to public infrastructure

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and facilities, as per the provisions of Section 653B b).

In addition, having regard to the report from Uisce Éireann dated the 17th of August 2026 which identified the need for a 230 metre watermain upgrade to service the lands and a review of the Uisce Éireann Capacity Register on 27th of October 2026 which sets out that a 'Level of service (LoS) improvement' is required as 'Capacity constraints exist and additional analysis of Pre-connection Enquiries and Connection applications' will be required to accommodate water connection capacity, there is uncertainty around the capacity of the water networks to accommodate development.

In this context, having regard to the provisions of 653B(b), it is reasonable to consider that the lands may not have access, or be connected to public infrastructure and facilities necessary for dwellings to be developed and with sufficient service capacity available for such development.

In coming to its decision, the Commission also had regard to the judgments of the High Court [2026] IEHC 703 and [2026] IEHC 720.

Patricia Calleary

**Patricia Calleary**
**Planning Commissioner of An Coimisiún Pleanála duly authorised to authenticate the seal of the Commission.**

**Dated this** 9th **day of** November **2026**